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CROCUS INVESTMENTS, LLC AND CROCUS, FZE

v

MARINE TRANSPORT LOGISTICS, INC. AND ALEKSANDR
SOLOVYEV a/k/a ROYAL FINANCE GROUP INC

Docket No 15-04

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FRIDAY, MAY 13, 2016

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The Hearing of the Federal Maritime
Commission convened in the First Floor Hearing
Room, 800 North Capitol Street, N.W., Washington,
D C , pursuant to notice at 2 06 p.m., JUDGE CLAY
G. GUTHRIDGE, presiding

PRESENT:

On behalf of Complainant.

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On behalf of Respondent

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ALSO PRESENT (By Phone)

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* * * * *

1 P R O C E E D I N G S

2 JUDGE GUTHRIDGE This is Crocus
3 Investments, LLC and Crocus, FZE vs. Marine
4 Transport Logistics, Inc and Aleksandr Solovyev
5 also known as Royal Finance Group Inc. It is
6 Federal Maritime Commission Docket Number 15-04.
7 It is May 13, 2016 and it is 2 06 p.m. This is
8 Judge Guthridge presiding Could I have
9 appearances of counsel please

10 MS TARASSOVA: Good afternoon, this is
11 Louiza Tarassova on behalf of the complainant

12 MR. CHANG Good afternoon, Judge
13 Guthridge This is Eric Chang and Stephen H
14 Vengrow on behalf of respondent.

15 MR. VENGROW: Good afternoon, Your
16 Honor.

17 JUDGE GUTHRIDGE: All right Mr.
18 Vengrow, Mr. Chang is one of you lead counsel? If
19 I have a question who do I ask?

20 MR. VENGROW I would suggest, Your
21 Honor, you speak directly to Eric Change.

22 MR CHANG: Yes, Judge

1 MR. VENGROW: If there is something that
2 needs to be added to what Eric might be saying to
3 Your Honor and I have that information I would
4 then speak up

5 JUDGE GUTHRIDGE: All right, that's
6 fine First let me apologize to you for the
7 confusion about May 11. I know you originally
8 scheduled it for May 11 There was something I
9 had forgotten to put on my calendar which was an
10 all-day thing that I could not avoid so we had to
11 switch it to today And also the best laid plans
12 of mice and men, I had a head phone set up and I
13 couldn't get it to work so I'm on my phone Also
14 on the line there should be Theresa Dike She is
15 the attorney advisor for the Administrative Law
16 Judges at the Federal Maritime Commission
17 Theresa, are you on?

18 MS DIKE Yes, I'm on, hello

19 JUDGE GUTHRIDGE: I've asked her to
20 listen in also because she may very well be
21 helping me with this decision Let me ask you
22 first -- we'll start off with this and I'll

1 summarize The parties filed their briefs and
2 their proposed findings of fact and appendices. I
3 wanted this conference because I want to make sure
4 that I understand the facts as they are presented
5 by the evidence so I wanted to go over it with
6 you. Let me start by asking are there any
7 objections to the evidence? Let me start with you
8 I guess the complainants' evidence comes in first
9 so Mr. Chang do you have any objections to any of
10 the exhibits in the appendix for the complainant?

11 MR. CHANG: Judge, we raised some
12 questions in our prehearing brief and also in our
13 supplemental submission a few weeks ago about the
14 credibility of some of the submissions but we have
15 no objection as far as their admissibility.

16 JUDGE GUTHRIDGE: All right, then the
17 complainants' evidence is admitted Ms. Tarassova
18 do you have any objections to the respondents'
19 exhibits?

20 MS. TARASSOVA. No, Your Honor. I would
21 answer in the same way We don't necessarily
22 agree with the credibility of the evidence but as

1 far as an objection is concerned, no, it should
2 all be considered and inferences should be drawn
3 accordingly.

4 JUDGE GUTHRIDGE All right, so all
5 evidence of the respondent is also admitted Let
6 me jump first to one thing just to find out who
7 did it while I'll thinking about it. Ms.
8 Tarassova pages 66 and 67 you had a two-page
9 document that was originally in a language other
10 than English and then you submitted a translation
11 of that but I don't think I saw anywhere on there
12 who identified or anything in there who wrote the
13 original.

14 MS. TARASSOVA. The original -- let me
15 just check the appendix You said it was CX 66
16 and 67?

17 JUDGE GUTHRIDGE: That's correct

18 MS TARASSOVA. I'll take a look

19 JUDGE GUTHRIDGE. It says to Aleksandr
20 Solovyev story with Andre but it doesn't say who
21 wrote it.

22 MS. TARASSOVA Yes, Your Honor, it is

1 actually an attachment to an email that goes prior
2 to it and it was from Mr. Aleksandr Safonov who is
3 the owner of the complainant.

4 JUDGE GUTHRIDGE. All right, so he wrote
5 that originally?

6 MS TARASSOVA: Yes

7 JUDGE GUTHRIDGE: Safonov?

8 MS TARASSOVA: Yes.

9 JUDGE GUTHRIDGE All right, I just
10 wanted to get that out of the way while I was
11 thinking about it. The first thing I want to do
12 is make sure I understand who the players are in
13 this. Ms. Tarassova, Aleksandr Safonov, who you
14 just mentioned, owns Crocus Investments, LLC one
15 of the complainants and also Crocus, FZE the other
16 complainant is that correct?

17 MS. TARASSOVA: Yes, Your Honor.

18 JUDGE GUTHRIDGE: And then he also owns
19 Middle East Asia Alpha FZC?

20 MS. TARASSOVA. Correct

21 JUDGE GUTHRIDGE: Middle East Asia is
22 not a complainant in this proceeding?

1 MS. TARASSOVA. No, Your Honor.

2 JUDGE GUTHRIDGE: Are Crocus
3 Investments, Crocus FZE and Middle East Asia, they
4 are all three separate and distinct legal
5 entities, is that correct?

6 MS. TARASSOVA. Yes, Your Honor.

7 JUDGE GUTHRIDGE: But when Mr Safonov
8 is acting and doing business sometimes he is one
9 and sometimes he is another, is that correct?

10 MS. TARASSOVA: That's correct.

11 JUDGE GUTHRIDGE: All right. Mr. Chang,
12 do you have any disagreement with that or do you
13 dispute that at all that -- that at least he has
14 the three distinct entities and could be one,
15 could be another at various times?

16 MR CHANG: No, Your Honor. Although
17 with regard to Middle East Asia it was represented
18 to us by complainants that Mr. Safonov is a 50
19 percent owner. I'm not certain that that has any
20 real material effect on the proceedings, but just
21 to keep the record sort of consistent with the
22 documents

1 MS. TARASSOVA: If I may add even though
2 he did have a partner in Middle East Asia he was
3 the -- I guess you can say the managing member or
4 the person with the decision maker or the tie
5 breaker basically

6 JUDGE GUTHRIDGE The first among
7 equals.

8 MS TARASSOVA: Yes.

9 JUDGE GUTHRIDGE: Then Middle East Asia,
10 it's located in Dubai, FZC -- do I correctly
11 understand that is Foreign Zone Company?

12 MS. TARASSOVA Free Zone

13 JUDGE GUTHRIDGE Okay. And Crocus FZE
14 employed Andrey Tretyakov. Is that the correct
15 pronunciation?

16 MS TARASSOVA. He was the partner in
17 Middle East Asia Alpha and Crocus FZE did not have
18 him as a shareholder. But at some point Andrey
19 Tretyakov did perform tasks for Crocus FZE

20 JUDGE GUTHRIDGE He was not a partner
21 he was an employee?

22 MS TARASSOVA. For Crocus

1 JUDGE GUTHRIDGE. For both Crocus FZE
2 and Middle East Asia?

3 MS. TARASSOVA No, he had a share in
4 Middle East Asia Alpha.

5 JUDGE GUTHRIDGE. So he is more than
6 just an employee?

7 MS. TARASSOVA: In Middle East Asia
8 Alpha correct

9 JUDGE GUTHRIDGE: Okay. Is that your
10 understanding Mr. Chang?

11 MR CHANG: With regard to Middle East
12 Asia Alpha we've actually heard various
13 representation throughout discovery but I don't
14 think his status with Middle East Asia really has
15 any strong bearing on this case We're fine with
16 accepting representation that he's a shareholder
17 of Middle East Asia

18 JUDGE GUTHRIDGE. Now to the respondents
19 there is a respondent Marine Transport Logistics,
20 Inc. and it is licensed by the Commission as a
21 non-vessel operating common carrier. The record
22 indicates that Alla Solovyev owns Marine

1 Transport Logistics. Is there any dispute to
2 that? Mr. Chang I guess that is your position, is
3 that correct?

4 MR CHANG: That's correct, Judge

5 JUDGE GUTHRIDGE: Ms. Tarassova do you
6 dispute that at all?

7 MS TARASSOVA We do not dispute that
8 she is the official owner of Marine Transport
9 Logistics but we do allege that Mr Solovyev
10 involved in MTL more than just an agent I mean
11 there were times where he held himself out as the
12 owner of the company

13 JUDGE GUTHRIDGE Where in the evidence
14 can you cite to me where it indicates that Mr
15 Solovyev held himself out as the owner?

16 MS TARASSOVA It is in a couple of
17 places. First of all, we refer to Mr Safonov's
18 transcript he discusses his relationship with Mr
19 Solovyev in MTL In addition to that --

20 JUDGE GUTHRIDGE Where in the
21 transcript?

22 MS TARASSOVA Give me one second, if I

1 can refer to his transcript.

2 JUDGE GUTHRIDGE: And that's in the
3 respondents' appendix, right?

4 MS. TARASSOVA: Yes. Your Honor, I'm
5 not sure if I'm able to find the specific page and
6 line item right now This is probably why we were
7 hoping to have an evidentiary hearing on this
8 issue is for Mr. Safonov to testify on why he was
9 under the impression that Mr. Solovyev was
10 controlled the company MTL. In addition to that
11 Mr Solovyev held himself out as the general
12 manager on social network websites.

13 JUDGE GUTHRIDGE. I do recall seeing an
14 email or something that identified him as general
15 manager of MTL. I do know that is in there. It
16 may not make any difference one way or the other
17 but I'm just trying to understand it as best I
18 can.

19 MS. TARASSOVA: Right, so a lot of the
20 actions that he took and a lot of the events that
21 transpired it certainly made it look as if
22 Solovyev was in full control of the company. This

1 is best explained by Mr. Safonov who was dealing
2 with him and he can speak to the specific events.
3 But I believe that if we look at also Mr
4 Solovyev's transcript there is a portion where he
5 talks about -- and one of the things we can look
6 at for example in the email address that he uses
7 he uses an MTL email address similar to what his
8 wife uses for the business

9 JUDGE GUTHRIDGE: An email address would
10 not necessarily mean that he is an owner

11 MS. TARASSOVA I understand that, Your
12 Honor, but there is a number of events that took
13 place that made it look like the company was under
14 Mr. Solovyev

15 JUDGE GUTHRIDGE: And like I say in the
16 long run it might not make any difference but I
17 just want to get as good an understanding of it as
18 I can.

19 MS TARASSOVA Yes, Your Honor.

20 JUDGE GUTHRIDGE: Now, I also understand
21 that Alla Solovyev is the estranged wife of
22 Aleksandr Solovyev, is that correct?

1 MR. CHANG Judge, Alla Solovyev and
2 Mr. Solovyev have a separation agreement I believe
3 but they're still separated so that's their
4 current status. They don't live together.

5 JUDGE GUTHRIDGE: Again, that may be
6 something that in the long run doesn't make any
7 difference but while you're on I wanted to clarify
8 that. If we were having a live hearing I would
9 probably ask that so it's something that occurred
10 to me to ask during this. But they have a
11 separation agreement at this point is what you
12 said Mr. Chang, is that right?

13 MR CHANG. I believe so, Judge.

14 JUDGE GUTHRIDGE: Okay and then the
15 other respondent that is filed as Aleksandr
16 Solovyev also known as Royal Finance Group, Inc
17 Aleksandr Solovyev also owns several companies as
18 I understand it. Car Express and Import, Inc ,
19 Royal Finance Group Inc , and World Express and
20 Connection, Inc He may own other companies but
21 those are the three that seem to be relevant to
22 this proceeding, is that correct Mr. Chang?

1 MR. CHANG: That is correct, Your Honor,
2 at least as of the dates in question.

3 JUDGE GUTHRIDGE Okay Ms Tarassova
4 do you have any disagreement with that?

5 MS TARASSOVA: No, Your Honor.

6 JUDGE GUTHRIDGE: And Car Express, Royal
7 Finance and World Express are also three separate
8 and distinct legal entities, is that correct Mr
9 Chang?

10 MR CHANG: That is correct, Judge

11 JUDGE GUTHRIDGE Then Mr. Solovyev,
12 identified as the respondent, would also be a
13 legal entity Do you have any dispute about that
14 Ms Tarassova?

15 MS TARASSOVA We do not have a dispute
16 in the sense that these are separately
17 incorporated companies but obviously we do dispute
18 the fact that he was treating them as companies
19 I think that is in our reply brief that basically
20 he was hiding behind these corporations to perform
21 acts in benefit of himself

22 JUDGE GUTHRIDGE I did see that was in

1 your reply brief Mr. Chang do you have a
2 response to that?

3 MR. CHANG. Yes, Judge, I believe what
4 the complainants are saying is sort of par for the
5 course any time a party makes an alter ego
6 allegation, but what is missing here at least in
7 the reply and in this case is some sort of a
8 causation link between the alter ego allegations
9 and the form alleged The way we're looking at it
10 is even if there was some sort of alter ego
11 question which we're not conceding but how did
12 this alter ego allegation actually bring about the
13 harm that has been alleged and we don't see any
14 such link.

15 JUDGE GUTHRIDGE: I would like to start
16 a little bit before that. Ms Tarassova, as you
17 said you mentioned that in your reply brief but I
18 looked through your complaint and I did not see
19 any allegation of piercing the corporate veil and
20 my understanding is that has got to be in the
21 complaint if you're going to raise it as a theory
22 of liability.

1 MS. TARASSOVA Right, Your Honor.

2 Initially we included as a respondent Mr. Solovyev
3 because all of his dealings were with the
4 complainants not from the companies behind which
5 he hid. But from himself they didn't even know
6 the existence of World Express and Connection.
7 The issue of all of these business entities arose
8 after the formal complaint was filed. At that
9 point we found out that there was a business
10 entity called World Express and Connection so
11 basically at that point because it was raised
12 respondents in their response brief we had to
13 reply with the corporate veil issue because of
14 that point.

15 JUDGE GUTHRIDGE: You're not reaching my
16 question. Generally, if a complainant, if a
17 plaintiff is going to raise piercing the corporate
18 veil as a theory of liability it has to be in the
19 complaint and that's what I'm saying So how did
20 your complaint put the respondents on notice that
21 you were seeking to piece the corporate veil?

22 MS TARASSOVA: Well, we included Mr.

1 Solovyev as an individual in the formal complaint.

2 JUDGE GUTHRIDGE I understand that

3 MS. TARASSOVA: We're going after him as
4 an individual. In addition to that some of these
5 corporations on the fact their involvement came up
6 during the litigation so initially the
7 complainants were -- because their dealings are
8 directly with Aleksandr Solovyev we decided to
9 file a law suit against Aleksandr Solovyev. As a
10 result, we did not put anything in the formal
11 complaint about piercing the corporate veil
12 because we never saw him as these corporations.
13 At a later time, it became apparent that he was
14 using some of these corporations to do business
15 with the complainant

16 JUDGE GUTHRIDGE: So when did you
17 develop your piercing corporate veil theory?

18 MS. TARASSOVA. When the respondents
19 alleged that Mr Solovyev was not acting as an
20 individual but acting as each one of these
21 corporations during the course of discovery it
22 became clear that Mr. Solovyev was going to use

1 these various business entities to protect himself
2 from the actions that transpired

3 JUDGE GUTHRIDGE So it was during the
4 course of discovery you developed the idea of
5 piercing the corporate veil?

6 MS TARASSOVA: Your Honor, we had to
7 raise it in our reply because it became clear that
8 Mr Solovyev was going to use the defense that it
9 wasn't him that was performing these acts it was
10 at some point it was Car Express and Import, at
11 some point it was the World Express and Connection
12 that did something, at some point it was Royal
13 Finance Group that did something.

14 JUDGE GUTHRIDGE. Didn't the
15 complainants know that all along? I mean there is
16 an invoice in there from -- and I think it is at
17 118 of your appendix from Car Part that identifies
18 Car Express as the member That's something that
19 the complainants had before they filed this
20 proceeding

21 MS. TARASSOVA If you give me one
22 second let me refer to that document.

1 JUDGE GUTHRIDGE That was my
2 recollection of the number, let me pull it up
3 myself.

4 MS. TARASSOVA Are you looking at the
5 Copart Invoice?

6 JUDGE GUTHRIDGE: Yes The CoPar invoice
7 is complainant's appendix 118 dated 8/7/13 to
8 identifying Travelers Indemnity Company as the
9 seller and member as Car Express and Import, Inc

10 MS TARASSOVA Right, Your Honor, this
11 looks like a receipt for the purchase of one of
12 the boat correct?

13 JUDGE GUTHRIDGE. That's correct the
14 formula boat.

15 MS TARASSOVA. This is something that
16 may have been in the possession of the
17 complainants before the filed the law suit. I
18 believe this is something and I can't say for sure
19 and this is why I would like the client to speak
20 on this issue how I believe this document was
21 either discovered during discovery and received
22 from the respondents or it may have been something

1 that was initially as something given from the
2 respondents prior to the law suit. As far as
3 their dealings and I really wish my client could
4 speak on this specifically so he can answer the
5 question better. It is my understanding that when
6 they were dealing with Mr. Solovyev they were
7 dealing with the individual and it was not made
8 clear that they were dealing with his corporations
9 at any point Even though there may be
10 documentation that mentions these corporations I
11 think it was -- the question is did the
12 complainants understand who they were dealing with
13 and basically who was performing the task for
14 them

15 JUDGE GUTHRIDGE. Back to my question
16 from a couple of minutes ago. You just said you
17 got this during discovery so I asked you when you
18 did you develop your theory of piercing the
19 corporate veil? Was it during discovery when you
20 started getting documents such as this car part
21 invoice?

22 MS TARASSOVA. I think that when we

1 initially realized that Mr Solovyev was going to
2 use his corporations to protect himself was
3 probably during his deposition If we look at his
4 deposition transcript I think we started
5 understanding that he was probably going to do
6 that. Now in our defense, Your Honor, did
7 respondent Solovyev file any kind of a motion or
8 response of pleading that basically said that he
9 should not be sued as an individual and should not
10 be named as an individual party in this. At no
11 point was there an objection of Mr Solovyev that
12 he was not acting as an individual but acting as a
13 corporation or multiple corporations.

14 JUDGE GUTHRIDGE: Do you have a response
15 to that Mr. Chang?

16 MR. CHANG Judge, we're not actually
17 sure where complainants' council is going with
18 this question. I will point out that from the
19 beginning of this conference complainants' council
20 mentioned that Mr. Solovyev was using an MTL email
21 address although it was in his role as Car
22 Express, as agents for MTL, but certainly the fact

1 that other corporations were involved was known to
2 complainants all along. The invoices that they
3 got were not invoices from an individual they were
4 invoices from a company As Your Honor pointed
5 out when the purchase of the boat was made it
6 wasn't Mr Solovyev purchasing it individually in
7 his name but it was the company purchasing it. It
8 seems at odds with even how the complainants
9 filed It is filed against Mr Solovyev as the
10 company name implicated. It is difficult to
11 understand how complainants can now say that they
12 thought they were dealing with Solovyev personally
13 and not with any of the companies that were on all
14 the documents, on invoices, on email and on the
15 correspondence. As far as the answer goes I'd
16 have to actually pull up what the answer says. I
17 don't recall off the top of my head (inaudible)
18 was asserted. Since an alter ego claim was not
19 raised in the complaint I don't believe we
20 responded to it

21 JUDGE GUTHRIDGE That would have been
22 unusual. Ms Tarassova when you started getting

1 the information about the other companies that you
2 say made it clear to you that Mr Solovyev would
3 be hiding behind these companies why didn't you
4 move to amend your complaint to add the piercing
5 the corporate veil claim?

6 MS TARASSOVA: And to answer that
7 question I mean I have to go back to the fact that
8 the respondents never filed a motion to dismiss
9 against Solovyev as an individual. They
10 acquiesced to the fact that we filed the formal
11 complaint against him as an individual and at no
12 point did they file any kind of a motion to
13 dismiss the law suit against him and at no point
14 did they assert that they had an issue with it.

15 JUDGE GUTHRIDGE I don't think they're
16 required to file a motion to dismiss They are
17 required to defend the case against him not
18 necessarily move to dismiss it By not moving to
19 dismiss it I don't think Mr Solovyev or the AKA,
20 the RFG, Royal Finance, waives any defenses. I
21 think we've sort of gone on on this on this
22 particular part of it because there is actually

1 another thing that I'd like to raise about
2 piercing the corporate veil As you say you did
3 not put it in your opening brief. You first
4 mentioned it in your reply brief and that's what
5 caught my eye about this Generally, arguments
6 that are not raised in an opening brief are
7 waived Even if there is some reason for not
8 having amended the complaint -- not having
9 originally plead piercing corporate veil -- and a
10 reason for not having moved to amend the complaint
11 to include it what about the fact that you did not
12 raise it in your opening brief but waited until
13 your reply brief to raise it?

14 MS TARASSOVA I think it goes back to
15 the same issue When we filed the formal
16 complaint against Mr. Solovyev as an individual
17 there was never an objection filed on behalf of
18 Mr. Solovyev that he should not be sued in his
19 individual capacity That issue did come up from
20 time to time. It seemed like they were going to
21 allege that he may be acting on behalf of his
22 corporations but there was nothing officially

1 filed that said they would be doing so So the
2 reason it is not in the opening brief is because
3 we assumed that they would not be raising this
4 issue because it has not been raised since the
5 formal complaint was filed. It was only raised in
6 the response brief and so I had to address the
7 issue in the reply brief Up until then it was
8 completely quiet on the respondents end as to
9 whether they were going to be raising the issue of
10 Mr. Solovyev being protected behind his
11 corporations I understand the Court's opinion on
12 this issue but I believe the respondent, Mr
13 Solovyev, should have raise the issue when he saw
14 his name as an individual listed on the formal
15 complaint if he believed that he was not acting as
16 an individual during these transactions I
17 believe that he should have put us on notice and
18 we could have addressed it at that point. But
19 waiting until the very end to raise that issue is
20 a little late and that is the complainants'
21 position on this issue

22 JUDGE GUTHRIDGE Okay, well those are

1 the two procedural problems. Do you want to
2 respond, Mr. Chang?

3 MR. CHANG: Yes, I'm sorry I disagree
4 that the respondents even raised the issue in our
5 opposition brief. I don't believe we made and
6 argument about the corporate veil or hiding behind
7 a corporation. Our arguments in the brief were
8 directed towards Mr. Solovyev's role as an agent
9 on behalf of MTL and therefore not having
10 requirements to file tariffs. That was the
11 argument in our opposition brief The corporate
12 veil in the complainants' reply brief is sort of
13 out of the blue I don't know where the argument
14 is coming from. I understand that throughout
15 discovery the names of multiple corporations have
16 been raised and discussed including in the
17 respondents' answer but it was never an argument
18 that there would now be a claim to pierce the
19 corporate veil

20 JUDGE GUTHRIDGE: All right. Ms.
21 Tarassova even if it were properly raised and
22 argued at some point or raised sometime earlier

1 than your reply brief the Commission has several
2 factors that it considers in whether to pierce
3 corporate veil. These are set forth in the case
4 Rose International, Inc vs. Overseas Moving
5 Network International Limited and that can be
6 found at 29 SRR 119 at 167 168 and that is a
7 Federal Maritime Commission decision in 2001 and
8 there are several factors that the Commission sets
9 forth I see no evidence at all on over half of
10 them There are certain things that are there
11 One of the factors is the nature of the ownership
12 and control and Solovyev is the owner of the three
13 corporations we talked about earlier So they all
14 have the same ownership. At least two of them use
15 the same office or business location Another
16 factor is overlapping ownership, officers,
17 directors and personnel Well, he owns all three
18 of them so that is met The others -- I mean is
19 there any evidence in the record about failure to
20 maintain corporate minutes or adequate corporate
21 records in failure to file corporate formalities.
22 Is there any evidence about that in the record Ms.

1 Tarassova?

2 MS TARASSOVA: I do not believe that we
3 specifically asked that question during his
4 deposition.

5 JUDGE GUTHRIDGE: That's not my
6 question My question is is there evidence in the
7 record about that?

8 MS. TARASSOVA: No, Your Honor, I don't
9 believe we addressed formalities with Mr Solovyev
10 during the deposition

11 JUDGE GUTHRIDGE: Is there any evidence
12 in the record on comingling of funds and other
13 assets?

14 MS TARASSOVA There could be some
15 facts that could be inferred from the fact the Mr.
16 Solovyev uses the one company called Royal Finance
17 Group to collect all funds for all the other
18 companies including MTL. That is an interesting
19 aspect of the whole situation. That is something
20 that kind of makes it look very suspicious The
21 other fact that their invoice --

22 JUDGE GUTHRIDGE Wait. Making

1 something looking like it is suspicious is not
2 evidence that it is being done. For all we know
3 because there doesn't seem to be any evidence in
4 the record Mr. Solovyev uses the Royal Finance as
5 his sort of collection and billing stuff. When
6 the money comes in if it is a Car Express payment
7 it goes to the Car Express account If it is a
8 World Express, it goes to the World Express
9 account and there is no comingling at all Is
10 there any evidence in the record that he is doing
11 anything but that?

12 MS. TARASSOVA: Your Honor, we did not
13 do financial discovery on Mr. Solovyev

14 JUDGE GUTHRIDGE: Okay. Is there
15 evidence of inadequate capitalization of any of
16 those companies?

17 MS TARASSOVA. The same answer, Your
18 Honor, we did not do financial discovery on him

19 JUDGE GUTHRIDGE: And is there any
20 evidence in the record of a diversion of the
21 corporation's funds or assets to non-corporate
22 uses?

1 MS. TARASSOVA. I do not believe so,
2 Your Honor. It goes to the same answer. We did
3 not do that type of discovery. We looked at other
4 things

5 JUDGE GUTHRIDGE Is there any evidence
6 that the corporations are treated as independent
7 profit centers or not treated as independent
8 profit centers?

9 MS TARASSOVA. I don't have any
10 evidence either way, Your Honor

11 JUDGE GUTHRIDGE: Okay, that's going to
12 be something to be considered as part of that and
13 it may not make any difference one way or another
14 but it is something I'll need to address.

15 MS TARASSOVA Your Honor, if I could
16 add to that the evidence that I do have is that
17 Mr Solovyev certainly does not treat each
18 corporation as a separate standing corporation.
19 Some of the evidence that we do have is that Mr.
20 Solovyev's testified to the fact that he uses one
21 main phone number, one main email address, one
22 main corporate address which is the same address

1 is MTL. His Florida Corporation, the Royal
2 Finance Group, is registered at a home address of
3 a person he could not name because he did not
4 remember but thought it was a family member down
5 in Florida. In addition to, he is the sole
6 employee I believe according to his deposition
7 transcript he is the sole employee of Car Express
8 and Import, Royal Finance Group and I believe he
9 said that World Express and Connection he has some
10 employees for that But those are the facts that
11 I wanted the Court to also consider.

12 JUDGE GUTHRIDGE: I will consider them.
13 I want to now get to -- try to understand exactly
14 what was going on with these operations As I
15 understand it from Mr. Safonov's this is in
16 respondent's appendix 63 it is Safonov's
17 deposition on page 29 lines 1 through 12 where
18 Safonov testified that Safonov and Aleksandr
19 Solovyev would view boats online and Safonov would
20 decide which boats to purchase Is that
21 essentially what they did because as I understand
22 it Safonov was in Dubai at this time, is that

1 correct?

2 MS. TARASSOVA Yes, Your Honor Mr
3 Safonov had some kind of online access to view the
4 inventory for the American Auto Auction -- I guess
5 it's Copart -- and I believe they sold more than
6 just autos there He would instruct --

7 JUDGE GUTHRIDGE: They sold boats there
8 and they bought boats there

9 MS TARASSOVA Yes, they did. So he
10 would instruct Mr Solovyev as to what he was
11 interested in from Dubai over the internet and Mr.
12 Solovyev would then complete the purchase on this
13 side.

14 JUDGE GUTHRIDGE I also understand this
15 is from the same page that Mr. Safonov had the
16 final decision making authority about which boats
17 to buy He was the one who would decide.

18 MS TARASSOVA. That's what he testified
19 to.

20 JUDGE GUTHRIDGE: Also all of the boats,
21 not just the three that are at issue in this
22 proceeding, but all of the boats were purchased

1 from Copart, is that correct?

2 MS. TARASSOVA: I'm not sure, Your
3 Honor There may have been another auction that
4 Mr. Solovyev used. I don't know; that's not on
5 the record

6 JUDGE GUTHRIDGE: Mr. Chang, can you
7 shed any light on that?

8 MR. CHANG. Is Your Honor's question
9 with regard to just the three boats at issue in
10 this case?

11 JUDGE GUTHRIDGE: No, as I understand
12 it, the three boats at issue in this case were
13 bought from Copart I don't think there is a
14 Copart invoice on one of them, I forget which one
15 I think there are on two but I thought read some
16 place that Copart is where they all came from
17 Not just these three but however many boats they
18 bought.

19 MR. CHANG I believe that is correct.
20 The parties Mr Safonov and Car Express and Mr
21 Solovyev's company had actually purchased other
22 boats in the past aside from these three boats As

1 far as where they were purchased from I don't have
2 that information on me at the moment but I think
3 Copart would probably be a safe assumption.
4 Copart is a rather large automobile and boat
5 auction site and it is a site that Mr. Solovyev
6 through his company Car Express which has a
7 wholesale dealer license frequents.

8 JUDGE GUTHRIDGE That actually brings
9 up my next question I was going to ask. Because
10 the invoice we were just looking at complainant's
11 appendix 118 the Copart invoice and as I read
12 earlier it said the seller was Travelers Indemnity
13 Company and the member was Car Express and Import,
14 Inc. Does one have to be a member to purchase
15 something from Copart or could I go online with
16 Copart and bid on boats or do I have to go through
17 a member Do you know, Mr Chang?

18 MR. CHANG: From what we were told
19 you're required to either have a license or to be
20 a member I'm not sure.

21 JUDGE GUTHRIDGE What kind of license?

22 MR CHANG A wholesale or dealer

1 license.

2 JUDGE GUTHRIDGE: Does Car Express have
3 a wholesale or dealer license for boats?

4 MR CHANG: Yes, Car Express does

5 JUDGE GUTHRIDGE: And it is also a
6 member of Copart to the extent that that's
7 required according to this invoice?

8 MR. CHANG That is correct, Judge.

9 JUDGE GUTHRIDGE Okay. Then how they
10 would operate from that point as I understand it
11 from the depositions, mostly from Mr Solovyev's
12 deposition, is that after Safonov would designate
13 which boat to buy this comes from the response to
14 complainants' proposed findings of fact I think is
15 where I got this from but it is cites deposition
16 testimony Royal Finance Group would advance
17 payments on behalf of the foreign complainants
18 which would mean Safonov to Copart a U.S. auction
19 site and to other companies for example MTL, Car
20 Express, Inland Trucking Companies. This was done
21 as a convenience to complainants so that
22 complainants would only need to make a single

1 "lump sum" wire transfer payment to RFG and
2 accordingly could avoid paying the fees associated
3 with sending multiple wire transfers. In this way
4 complainants would also avoid incurring penalties
5 for late payment to the auction site which could
6 occur if there were delays with the foreign wire
7 transfers. It says see deposition transcript of
8 and I inserted Aleksandr Solovyev at page 45 line
9 17 to page 47 line 25. RFG in turn charged a
10 commission to complainants for its services see
11 deposition transcript of Aleksandr Solovyev at
12 page 46 line 8-14 Ms Tarassova is that your
13 understanding of essentially the way this
14 relationship worked before it went south?

15 MS. TARASSOVA: I think that the
16 complainants would agree that Mr. Solovyev
17 collected the payment through Royal Finance Group
18 but that's about all that they're going to agree
19 to I don't know if they would agree to the truth
20 of the statement of he did it to avoid late
21 payments for his clients. He could have done it
22 for a number of reasons and it is unclear why he

1 was collecting payment through Royal Finance Group
2 which is a Florida corporation but regardless we
3 don't disagree with the fact that he used that
4 company to collect all cash payments.

5 JUDGE GUTHRIDGE I confess I do not
6 deal a lot in foreign wire transactions. Do you
7 disagree that if Safonov in Dubai had three
8 payments to make one to Copart, one to MTL and one
9 to somebody else that making one wire transfer to
10 RFG and having RFG pass those payments on would
11 result in a lower transaction fee for Safonov?

12 MS TARASSOVA: Your Honor, we would
13 disagree with that If we look at Mr. Safonov's
14 transcript regarding the wire transfer fees I
15 think there were I think he testified to maybe
16 \$50.00 each wire transfer. Obviously the currency
17 exchange rate will be charged regardless, whether
18 it's one lump sum for a larger amount of three
19 separate charges, I mean, there is a currency
20 exchange rate. If you look at Mr. Solovyev's
21 commission for his services I think it exceeded
22 what Mr Safonov would have paid if made two

1 separate wires. So that's why he would disagree
2 that he was doing everybody a favor. I think he
3 had an ulterior reason for doing it

4 JUDGE GUTHRIDGE I don't care if he was
5 doing everybody a favor or had an ulterior reason
6 what I'm saying is this the way the operation
7 worked for the period of - for however many boats
8 were purchased during this relationship? Was this
9 their standard way of practice?

10 MS TARASSOVA: Yes, Your Honor, and we
11 did agree to that, that's how they did it

12 JUDGE GUTHRIDGE: So whatever the
13 respondent's motive might have been it got him a
14 little more and it is something that's for a
15 number of boats beyond these three the parties
16 agreed to do, is that correct?

17 MS TARASSOVA: Yes, Your Honor. That
18 was their course that the complainants would wire
19 one sum to Royal Finance Group and then Royal
20 Finance Group would I guess --

21 JUDGE GUTHRIDGE Solovyev might have
22 had an ulterior motive but Safonov agreed to that

1 course conduct for some period of time, correct?

2 MS. TARASSOVA Yes, Your Honor.

3 Correct

4 JUDGE GUTHRIDGE: Okay. Let me jump
5 before we get into the boats themselves and ask
6 you, Ms Tarassova, about the documents that
7 relate to a Mercedes and Porsche apparently owned
8 by Solovyev that he sent to Dubai I guess to be
9 repaired and sold. What's their relevance to this
10 proceeding?

11 MS TARASSOVA: I think it shows that
12 they had an understanding and it is my
13 understanding from my client's perspective is that
14 during the time that the respondents held the
15 complainants' property while they were deciding
16 what to do with the formula boat whether to ship
17 it to Dubai or whether whatever what is happening
18 while they were holding it the complainants also
19 had Mr Solovyev's property or at least Mr.
20 Solovyev alleged that it was his property. I
21 think that is an issue in dispute in a different
22 case But Mr. Solovyev hadn't requested that he

1 wanted to sell these I think they were salvaged
2 automobiles. They couldn't be sold here in the
3 United States so he sent them over to Dubai to see
4 if the complainants could fix them up and try to
5 see them in Dubai. Then whatever profits they
6 would make they would send back to Mr. Solovyev.
7 They had an ongoing relationship where they were
8 doing favors for the respondents and in turn the
9 respondents held on to the formula boat for over a
10 year

11 JUDGE GUTHRIDGE. What does the
12 automobiles and shipping them to Dubai and being
13 held by Safonov over there what does that have to
14 do with the alleged Shipping Act violations?
15 Because that is the only jurisdiction that the
16 Commission has It has to do with the
17 transportation of cargo by water between the
18 United States and foreign country, in this case
19 Dubai What do these automobiles have to do with
20 the transportation of the boats?

21 MS TARASSOVA: I think it gives us a
22 little background on the party's relationship

1 because I believe the respondents are alleging
2 that they're owed in relation to holding on to
3 property that they were going to ship
4 internationally. This just gives background to
5 the issue that maybe perhaps there was a reason
6 why they didn't initially issue any invoices for
7 storage because they had an incentive not to.

8 JUDGE GUTHRIDGE. What does it have to
9 do with whether or not the respondents, as you
10 allege in your complaint, failed to establish,
11 observe and enforce just and reasonable
12 regulations and practices related to or connected
13 with the receiving, handling, storing or
14 delivering of property, meaning the boats

15 MS TARASSOVA It is just background,
16 Your Honor, I don't think it goes directly to
17 that

18 JUDGE GUTHRIDGE. Okay So now we get
19 to the boats On May 7, 2013 according to
20 Complainants' Appendix 007 Middle East Asia Alpha
21 FZC purchased the boat identified as the 2008
22 Chaparral with a vin number for \$10,505.00

1 That's the receipt that's in there and that is the
2 evidence on which - or one piece of evidence on
3 which you rely, Ms Tarassova There is also a
4 vessel bill of sale on page 18 018 of the
5 Complainants' Appendix that identifies the seller
6 as Marine Transport Logistic. Mr Chang, did
7 Marine Transport Logistic sell the 2008 Chaparral?

8 MR. CHANG: No, Your Honor I believe
9 we were questioned about this document, Mr.
10 Solovyev was questioned about this document at a
11 deposition and he testified it was not even his
12 signature on the document. So we are not sure
13 where this document has come from. We believe it
14 was a document that was created in Dubai not for
15 any nefarious purpose but by Middle East Asia to
16 help facilitate the import of the boat into Dubai.
17 So it may be just a customs document that was
18 created for Dubai customs It wasn't a document
19 that Marine Transport Logistics had any real part
20 in.

21 JUDGE GUTHRIDGE: So I see a signature
22 of seller purportedly dated May 22, 2013 with a

1 signature there Is that the signature that you
2 say Mr. Solovyev testified was not his signature?

3 MR CHANG. I believe that is in the
4 deposition It may also just be his response to
5 questioning on this document

6 JUDGE GUTHRIDGE: Ms. Tarassova, what is
7 your knowledge of this vessel bill of sale?

8 MS. TARASSOVA: It looks like it was
9 notarized by a person who worked for Marine
10 Transport Logistic at the time

11 JUDGE GUTHRIDGE: Are you talking about
12 Vabim Alper?

13 MS. TARASSOVA Yes, Your Honor. This
14 is a person that is believed to have worked for
15 Marine Transport Logistic at the time so I can't
16 say where it came from Perhaps this is something
17 we'll have to ask the parties but from just
18 looking at the face of the document it seems to be
19 notarized by someone who worked for Marine
20 Transport Logistics at the time

21 JUDGE GUTHRIDGE. And then there is also
22 at 115 of Complainants' Appendix the Copart

1 invoice identifying the seller as Encompass
2 Insurance and the member as Car Express and
3 Import, Inc for the '08 Chaparral boat. Let me
4 ask you something, Ms Tarassova, and I don't mean
5 to be mean by saying this but did you give some
6 thought to maybe putting all the documents about
7 each boat together? That would make it easier for
8 somebody trying to go through the record rather
9 than jumping them well hundred pages apart

10 MS TARASSOVA: I will certainly try to
11 do that next time.

12 JUDGE GUTHRIDGE: I'm not asking you to
13 redo the appendix but you ought to give some
14 thought to that maybe Make things as easy for
15 the judge as you can At the Complainants'
16 Appendix at 77-79 is a title for the 2008
17 Chaparral identifying the owner is Encompass
18 Insurance of New Jersey Who owns the 2008
19 Chaparral that this point?

20 MS TARASSOVA That is a good question,
21 Your Honor I can't say for sure I think the
22 respondents might be able to answer that better

1 JUDGE GUTHRIDGE: Why would they be able
2 to answer it better?

3 MS TARASSOVA It is my understanding
4 that these certificates of title were --

5 JUDGE GUTHRIDGE: Let me back up Let
6 me not ask it for now As of May 2013 who owned
7 the 2008 Chaparral?

8 MS. TARASSOVA: Are you asking who was
9 the registered owner or who was the owner as far
10 as -- are we talking about whether the title was
11 registered to one particular owner?

12 JUDGE GUTHRIDGE: Who purchased the 2008
13 Chaparral? It ended up going to Dubai owned by
14 somebody Who owned it at that point? Was it
15 Middle East Asia? There is some indication that
16 it is Middle East Asia. The Complainants'
17 Appendix at 007 is the invoice that says the
18 purchaser was Middle East Asia Mr Safonov is
19 the one who supplied the money for it, is that
20 correct?

21 MS. TARASSOVA Yes, Your Honor. I
22 believe all the wire transfers were from either

1 Crocus FCE or Crocus Investments

2 JUDGE GUTHRIDGE: Who bought that boat?

3 It was Mr Safonov's money and three of his
4 companies are potentially involved here Who
5 bought the boat?

6 MS. TARASSOVA. Let me look at the wire
7 receipt because whoever paid for the boat would be
8 the owner. Let me just check the wire I believe
9 for the two smaller boats the Monterey and the
10 Chaparral it was Crocus FZE that wired the money
11 and therefore would be the owner. I'm looking at
12 Complainants' CX 112, it is the application for
13 telegraphic transfer, it's the wire receipt in the
14 amount of \$30,000 from Crocus FZE so that is the
15 money that went towards to two boats So Crocus
16 FZE would be the owner of the boats since that's
17 the company that paid for it. As far as
18 registration, I'm not sure they were even ever
19 registered to a particular company.

20 JUDGE GUTHRIDGE. On that 112 where you
21 were just looking at it says payment for invoice
22 number 1168 and that is the Monterey, the 2011

1 Monterey and 1174, the 2008 Chaparral that is the
2 subject of the proceeding It was RFG invoice
3 1177.

4 MS. TARASSOVA: Right, Your Honor This
5 is the way they did business. I believe that if
6 you look at the emails going back and forth the
7 way they way do it was Mr Safonov's was at some
8 point Mr Solovyev either asked him or allowed him
9 to create some invoices and so there were a lot of
10 invoices going back and forth and sometimes their
11 numbers were different. I'm not sure if it is
12 disputed by the parties that both of these boats
13 were paid for by Crocus FZE and essentially owned
14 by them.

15 JUDGE GUTHRIDGE Mr. Chang, as far as
16 you know did Crocus FZE purchase both of these
17 boats?

18 MR. CHANG Judge, I think you really
19 asked two questions. The first question is as far
20 as who purchased the boat The initial purchaser
21 I think as Your Honor sort of hit on earlier was
22 Car Express but as Ms Tarassova pointed out

1 eventually an invoice was sent from Royal Finance
2 Group to collect the lump sum payments of all
3 these boats So there is really no dispute from
4 respondents' side that the 2011 Monterey and the
5 2008 Chaparral were ultimately paid for by one of
6 Mr. Safonov's companies. I think what might be
7 the cause of some of this confusion is there are
8 other boats involved in some of these
9 transactions I've got four named as part of this
10 complaint but were purchased upon the same agreed
11 upon procedure. That's the explanation to some of
12 these other invoices and it is also the
13 explanation for why other boats are named on the
14 bills of lading.

15 JUDGE GUTHRIDGE: Actually one of the
16 things that occurred to me as I was looking
17 through this and also in dealing with the
18 corporate veil issue and thinking about that is it
19 seems everybody was pretty casual about who was
20 actually doing what. Am I operating as Crocus
21 investment or Crocus FZE or Middle East Asia or
22 RFG, you know, who is actually legally doing what

1 is being done When things go right as it did on
2 most of the boats nobody cares much But when
3 things go wrong that's when it gets to me and I've
4 got to hash out all this stuff and figure out who
5 did what and who owns what and part of this is who
6 has a right to bring a case. Mr Chang, you seem
7 to be accepting of the fact that it came from one
8 of Mr. Safonov's three companies. Here is some
9 documentary evidence on the Monterey anyway that
10 it came from Crocus FZE but the others you're not
11 sure of unless there is something else in the
12 record, is that right?

13 MR CHANG I am not sure of the exact
14 payment documentation but the 2011 Monterey and
15 the 2008 Chaparral were shipped over to Dubai and
16 received by Middle East Asia. Certainly none of
17 Mr. Solovyev's companies raised any claims for
18 non-payment as far as the boats are concerned As
19 far as anticipating Your Honor's question or
20 standing to sue on these boats I don't see any
21 reason to object to one of Mr Safonov's companies
22 whichever one it might be having some sort of

1 standing It may be Middle East Asia at the end
2 of the day but we really haven't conducted any
3 discovery to explore that issue

4 JUDGE GUTHRIDGE Okay Then next on
5 the Chaparral, it was purchased and then on May 22
6 and this is where we finally get to the Federal
7 Maritime Commission's interest in this On May
8 22, 2013 MTL issued a bill of lading identifying
9 MTL as the shipper Middle East Asia is the
10 consignee, Newark is the port of loading and Jebel
11 Ali as port of unloading and identifying the cargo
12 to include the 2008 Chaparral. On May 25, 2013
13 MAERSK issued a similar bill of lading.
14 Both of those bills of lading also identify a 2007
15 Four Winns that they were loaded into a container
16 and shipped to Dubai. There doesn't seem to be
17 any dispute as to that. The Four Winns boat --
18 does anybody know whether the 2007 Four Winns boat
19 was purchased using the same sort of proceeding or
20 same sort of course of conduct as the 2008
21 Chaparral and the other boats? Is that one of
22 their boats?

1 MS. TARASSOVA Your Honor, I guess we
2 can only assume that We haven't done any
3 discovery in regards to that

4 JUDGE GUTHRIDGE: It is your client who
5 may or may not own it -- presumably would own it.
6 It just seemed logical to me that it probably is
7 one of the boats of which there were a number, I
8 understand from the record, that were actually
9 sold in Dubai. They were shipped to Dubai and
10 then sold but nobody knows whether that is
11 actually one of those boats, is that what you're
12 telling me?

13 MS. TARASSOVA: Yes, Your Honor.

14 JUDGE GUTHRIDGE: Okay. Now, the 2008
15 Chaparral arrived in Dubai and was delivered to
16 Middle East. Is there any dispute to that?

17 MS TARASSOVA No. Your Honor.

18 JUDGE GUTHRIDGE: Ms. Tarassova, earlier
19 I read the statute or your allegation in the
20 complaint or the statute that you're directed to,
21 you're claiming was violated and it is 46 U S C.
22 41102(c) and a common carrier marine terminal

1 operator or ocean transportation intermediary
2 which is what MTL is may not fail to establish,
3 observe and enforce just and reasonable
4 regulations and practices relating to or connected
5 with the receiving, handling, storing or
6 delivering property. At what point if any during
7 the transportation of the 2008 Chaparral from the
8 United States to Dubai did the respondents fail to
9 establish, observe or enforce just and reasonable
10 regulations and practices relating to or connected
11 with the receiving, handling, storing or
12 delivering of the 2008 Chaparral?

13 MS TARASSOVA: On its way from New
14 Jersey to Dubai at that point everything was fine
15 still.

16 JUDGE GUTHRIDGE So you do not claim
17 there was any Shipping Act violation committed by
18 MTL or any respondent from shipping the 2008
19 Chaparral to Dubai?

20 MS TARASSOVA: To Dubai no not at that
21 point. It became an issue when MTL received it
22 when it came back to the United States.

1 JUDGE GUTHRIDGE What became an issue?

2 MS TARASSOVA: The violation of the Act
3 became an issue when the two smaller boats came
4 back into MTL's possession when they were shipped
5 from Dubai to the United States

6 JUDGE GUTHRIDGE: Okay. On the 2011
7 Monterey the Complainant's Appendix at 011 is an
8 RFG invoice 1168 to Andrey Trecyacov in Dubai
9 Middle East Asia Alpha for the 2011 Monterey
10 There is also an invoice identifying attributing
11 certain money for certain purchases. The same
12 question as regards to the 2008 Chaparral, who
13 owned the 2011 Monterey after that purchase in
14 2013?

15 MS. TARASSOVA: It would have been owned
16 by Crocus FZE.

17 JUDGE GUTHRIDGE: Okay.

18 MS. TARASSOVA They're the ones that
19 paid for it

20 JUDGE GUTHRIDGE: And then Crocus --
21 Safonov instructed Solovyev to ship the Monterey
22 to Dubai and on May 5, 2013 MTL issued a bill of

1 lading identifying Treacyacov, Andrey as shipper
2 Middle East Asia consignee, New York as of port of
3 loading, Jebel Ali as port of unloading and
4 identifying the cargo to include the 2011
5 Monterey There was on May 5 MAERSK Line issues a
6 similar bill of lading. Those two bills of lading
7 also identify 2002 Chaparral boat. Does anybody
8 know whether that was one of those purchased by
9 that process of Safonov and Solovyev going on the
10 internet and purchasing a boat?

11 MS TARASSOVA: Right, Your Honor, I
12 don't think we did any discovery related to that.
13 It can only be that that is probably part of the
14 regular dealing.

15 JUDGE GUTHRIDGE: Okay. And then the
16 2011 Monterey arrived in Dubai and was delivered
17 to Middle East Asia. The same question with
18 regard to the 2011 Monterey, do you claim there
19 was any Shipping Act violation on the shipment
20 from the United States to Dubai?

21 MS. TARASSOVA No, Your Honor, at that
22 point no.

1 JUDGE GUTHRIDGE Okay Now there came
2 a time about a year later when I guess Middle East
3 Asia or whoever was trying to sell boats over
4 there was not able to sell those two boats, the
5 two that came back.

6 MS. TARASSOVA: Yes.

7 JUDGE GUTHRIDGE: And so the record
8 indicates in Safonov's deposition and this is
9 Respondents' Appendix at 69 Safonov's deposition
10 at page 52 line 13 to 53 line 9 summarize says
11 Safonov instructed two employees of Middle East
12 Asia to arrange shipment of the 2011 Monterey and
13 the 2008 Chaparral to the United States Is there
14 any dispute to that? That Safonov instructed two
15 employees to do that?

16 MS TARASSOVA Yes, Your Honor, I don't
17 think there is a dispute. That is what he
18 testified to

19 MR CHANG: Judge, we agree that that is
20 his testimony but I will point out when Your Honor
21 gets to it but I think we have some real questions
22 in light of the supplemental certification that

1 was submitted by Mr Safonov as to what really
2 happened.

3 JUDGE GUTHRIDGE I understand that and
4 we're going to get to there but this is testimony
5 saying that he instructed two Middle East
6 employees to get these back to the United States
7 That doesn't yet have anything to do with the
8 respondents it doesn't seem

9 MR CHANG. Right, we have no
10 independent oppositional information

11 JUDGE GUTHRIDGE: Okay. Now on May 30
12 APL issued the bill of lading and sent the boats
13 2008 Chaparral and 2011 Monterey back to MTL. I'm
14 a bit puzzled, Mr Chang How did MTL end up
15 being the consignee on that?

16 MR CHANG This we don't know Our
17 best guess is that -- and this relates back to the
18 earlier bills of lading for the export shipment --
19 Mr. Treacyacov of Middle East Asia had actually
20 been, we believe, dealing directly with MTL or
21 booking shipments directly with MTL He was known
22 to MTL's booking department. Our best guess with

1 regard to this APL bill of lading is he listed
2 Marine Transport as the consignee because they
3 were the shipper on the reverse MAERSK bill of
4 lading. As our questioning and investigations
5 don't turn up any correspondence with Middle East
6 Asia or any authorization from Marine Transport
7 Logistics to be listed as the consignee. It is a
8 question mark, Your Honor Marine Transport
9 Logistics has no real independent interest in this
10 return shipment. It is only costing Marine
11 Transport Logistics money so I don't know why the
12 decision was made That's a witness that maybe
13 complainants have in their control but we don't
14 really have a straight answer for you, Your Honor

15 JUDGE GUTHRIDGE· Ms. Tarassova, I asked
16 a couple of weeks ago for any documents relating
17 to the transportation back to the United States
18 anything issued by APL, anything issued by AEC
19 Cargo Services, LLC You did not have any so the
20 complainants do not have any documents in their
21 possession about how those boats got from wherever
22 Middle East Asia kept them down to the wharf in

1 Dubai?

2 MS. TARASSOVA Your Honor, the
3 complainants do not have anything That is there
4 position. We asked for any documentation that
5 they would have and our client basically stated
6 that he does not have any documentation from that.

7 JUDGE GUTHRIDGE: Did you try to get
8 them from APL or this other company, the
9 forwarding agent? AEC Cargo Services

10 MS TARASSOVA: No, Your Honor. The
11 client stated they did not have anything and I
12 think at that point it was not going to make the
13 deadline Usually when you request documents like
14 that it takes approximately 30 days so we did not
15 request it, no.

16 JUDGE GUTHRIDGE. All right. Do you
17 know how MTL got to be the consignee?

18 MS TARASSOVA. It is my client's
19 position that Mr. Solovyev who was acting on
20 behalf of MTL throughout the course of their
21 dealings arranged that It is corroborated by the
22 fact that MTL did not object to picking up the

1 boats once they arrived. They did not object to
2 paying customs and taking custody or control over
3 the boats and that is evident in the respondents'
4 supplemental documents which they filed just a
5 week ago or so. It looks like MTL not only
6 acquiesced to being a consignee they also took
7 responsibility for the cargo.

8 JUDGE GUTHRIDGE: Took responsibility at
9 what point?

10 MS TARASSOVA. When the boats arrived
11 to the United States they paid customs fees for it
12 and they produced documentation that showed that
13 MTL -- if you look at RX 92 it looks like a copy
14 of the check from Marine Transport Logistics --

15 JUDGE GUTHRIDGE: RX 92? Oh, that's one
16 of the supplemental responses

17 MS. TARASSOVA: Yes, Your Honor. And
18 then I guess the check relates to RX 93 for an
19 invoice to MTL from Fauna and Flora for duty
20 customs, entry fee, bond preparation, et cetera
21 which they paid on behalf of the complainants when
22 they picked up the cargo which is the two boats in

1 question. So how they got to be the consignee it
2 is unclear. That is the question again for the
3 actual parties to answer but it certainly looks
4 like they did not have an objection to that and
5 picked up the boat.

6 JUDGE GUTHRIDGE. Do you have any
7 evidence at all that MTL assumed responsibility
8 for the transportation of the boats from Dubai to
9 the United States?

10 MS. TARASSOVA: Other than Mr Solovyev
11 asking MTL and arranging and it is our position
12 that Mr Solovyev helped arrange the shipment from
13 Dubai to the United States and it was under Mr.
14 Solovyev's instruction that MTL was listed as
15 consignee Do we have something in writing that
16 says MTL assumes responsibility? I do not believe
17 but I think it can be reasonably inferred. Not
18 only is their name on the bill of lading they also
19 confirmed their responsibility by paying money and
20 picking up the boat

21 JUDGE GUTHRIDGE. That is a different
22 function it seems to me That's not the

1 transportation of the cargo. As a consignee
2 identified on a bill of lading of cargo that's
3 coming from a former customer -- it comes in, why
4 they paid it I don't know. But does that mean they
5 assumed responsibility for the transportation of
6 the cargo from Dubai to the United States?

7 MS TARASSOVA We would argue that they
8 did assume it

9 JUDGE GUTHRIDGE: How? Just because the
10 cargo came in to the United States and they paid
11 the customs fees?

12 MS. TARASSOVA: Yes, Your Honor, in
13 their course of dealings they took care of all the
14 complainants' shipping needs. Mr Solovyev
15 arranged -- as we can see through the emails that
16 we do have Mr Solovyev attempted to arrange at
17 least with another company not the company they
18 ended up using we don't have anything on that, but
19 it is clear that Mr. Solovyev was involved in it
20 on behalf of MTL in trying to arrange the
21 shipment.

22 JUDGE GUTHRIDGE. All we have in the

1 record is that Mr Solovyev was contacted and made
2 some inquiries and passed the results of those
3 inquiries back to Middle East in Dubai but then
4 Middle East selected another carrier to actually
5 transport the cargo from Dubai to the United
6 States That's the evidence that is in the
7 record. Yes, there are these inferences that
8 could be made but based on what?

9 MS TARASSOVA Based on their course of
10 dealing and based on what Mr. Safonov testified to
11 in his deposition, basically they relied on Mr
12 Solovyev to handle the international shipping
13 This is why they were dealing with him in the
14 first place is because he --

15 JUDGE GUTHRIDGE: Well, they did on the
16 transportation very clearly and that's why I think
17 I mean I asked the reason with inference I would
18 make on the other boats that were in the
19 containers with the two boats that went to Dubai
20 that, yes, MTL was handling the transportation
21 from the United States to Dubai. It clearly was a
22 course of conduct but this was the only one

1 shipment that came from Dubai back to the United
2 States. Whether that course of conduct on
3 transporting U S to Dubai means they assumed
4 based on the fact that they were named as the
5 consignee means they assumed responsibility of the
6 transportation of the cargo. Because if they did
7 not assume responsibility for the transportation
8 of the cargo from Dubai to the United States how
9 could they have violated the Shipping Act?

10 MS TARASSOVA. And it is our position
11 that they did assume responsibility of the cargo

12 JUDGE GUTHRIDGE And that's why I want
13 to clarify. Based on what? Based on the evidence
14 in the record and could you summarize it again for
15 me?

16 MS TARASSOVA Yes, Your Honor. Based
17 on the testimony of Mr. Safonov who stated that he
18 was dealing with Mr Solovyev throughout all of
19 the transactions both the shipment from the United
20 States and then from Dubai back to the United
21 States. Also we do have emails where Mr Solovyev
22 actually attempts to set it up with other

1 companies even though we don't have emails where
2 he actually set it up with APL. It does show that
3 Mr. Solovyev was involved in trying to arrange the
4 shipment from Dubai to the United States In
5 addition to that, MTL was listed on the bill of
6 lading as the consignee and ended up picking up
7 the boats. So in totality it seems that MTL knew
8 about the shipment that was coming from Dubai. It
9 is our position that they are the ones that made
10 it happen and figured out who would ship it and
11 had contact in Dubai to make it happen and then
12 ultimately took control and possession of the
13 cargo when it arrived, paying for it. I don't see
14 why they would pay the customs fee, et cetera if
15 they had nothing to do with it and they were taken
16 by surprise that they were listed on the bill of
17 lading as consignee The totality of the evidence
18 shows that MTL was well aware of the fact that the
19 boats were coming and Mr. Safonov's testimony is
20 that Mr. Solovyev assisted them with all their
21 international shipping needs.

22 JUDGE GUTHRIDGE: Mr. Chang, do you have

1 a response to that?

2 MR. CHANG: Yes, Judge I think a lot
3 of this is conjecture but it is also based on the
4 recent self-serving certification that was
5 submitted by Mr. Safonov which itself is at odds
6 with the email correspondence and documents in the
7 record. Just to take one example, in paragraph
8 three of Mr Safonov's certification he said he
9 told his assistant to arrange delivery of the
10 boats. Not that he spoke with Mr. Solovyev but
11 he was speaking with his assistant Paragraph
12 four then goes on to say that Mr Safonov's
13 assistant found two companies that could deliver
14 the boats for \$4000.00 but then he received a
15 better offer from Mr Solovyev for \$1500.00
16 Again, that isn't reflected in any of the
17 correspondence and in fact in the final bill of
18 lading issued by American President Lines ocean
19 freight is in the amount of \$3000 00 plus not
20 \$1500 00. So the certification isn't supported by
21 email correspondence that was produced by
22 complainants This argument that a consignee

1 somehow assumes carrier responsibility, as Your
2 Honor has pointed out, is not correct under the
3 Shipping Act. More importantly, MTL through its
4 president Ms. Alla Solovyeva was deposed about
5 this issue and she said that it happens frequently
6 that customers will return shipments and they will
7 designate MTL as the consignee and MTL will pay
8 the customs fees because they have to clear the
9 container from the port. They can't have
10 responsibility if the container is sitting there.
11 I don't agree that an inference can be drawn just
12 because a consignee accepts a shipment they are
13 somehow simultaneously or retroactively accepting
14 a responsibility for the ocean carriage as well.

15 JUDGE GUTHRIDGE Let me ask you this,
16 Mr. Chang, and maybe would a consignee in that
17 situation be potentially liable for any demurrage
18 that builds up on the container if they do not
19 pick it up?

20 MR CHANG: I think there is actually
21 some conflicting case law on that but I believe
22 that a consignee could be liable for demurrage if

1 a container remains at the port unclaimed Under
2 the bill of lading depending on the carrier the
3 carrier can proceed against pretty much anyone
4 listed on the bill of lading for outstanding
5 freight or outstanding charges or demurrage Not
6 having the American President Line bill of lading
7 in front of me it is certainly a possibility that
8 MTL is very cognizant of it which helps motivate
9 their acceptance of a container but only as a
10 consignee.

11 JUDGE GUTHRIDGE: Ms Tarassova, do you
12 have any response to that? Could MTL as a
13 consignee be liable for demurrage if they failed
14 to pick it up?

15 MS TARASSOVA: I don't think that is an
16 unreasonable assumption to make but I mean at the
17 same time if MTL -- MTL cannot be said to not have
18 known about the shipment coming towards it and
19 that is the main point. The respondents were very
20 well aware that the two boats were coming to the
21 United States and not only to the United States
22 but it was expected that MTL would pick them up.

1 This did not come as a surprise I understand
2 that the respondents' position is that they did
3 not realize that they were listed as the consignee
4 until the boats arrived but our position is very
5 different. Our position is that they are the ones
6 that made that happen and very well knew and were
7 on notice and expected the cargo to arrive and
8 were not taken by surprise when they had to pay
9 for the fees. That's where our positions differ

10 JUDGE GUTHRIDGE: Even if it is assumed
11 that they did know that the boats were coming
12 back, that MTL knew that the boats were coming
13 back, does the fact that they knew the boats were
14 coming back mean that they assumed responsibility
15 for the transportation of the boats from Dubai to
16 the United States?

17 MS TARASSOVA We would say yes because
18 they arranged the transportation

19 JUDGE GUTHRIDGE: What demonstrates that
20 they arranged the transportation? All we have is
21 an email from Solovyev to somebody whose name
22 starts with a Z, whose name I'm not remembering

1 right now, saying what quotes do you have, what
2 quotes can you give me and you've got two quotes
3 and yet Middle East Asia used another carrier.

4 MS TARASSOVA: Your Honor, in addition
5 to that we have certification from Mr. Safonov and
6 the Court can take evidentiary statements have an
7 evidentiary hearing and ask Mr. Safonov these
8 exact questions and take his testimony under oath
9 in regards to that. We do not have anything else
10 in writing other than that

11 JUDGE GUTHRIDGE: The time to present
12 your evidence was a couple of months ago. I asked
13 for a couple of other things that you said you do
14 not have at this point that might shed some light
15 on this referring to the documents that were
16 actually created in Dubai As I understand it
17 before the container was even loaded on board the
18 vessel there had to be documentation sent to U.S
19 Customs about what was actually going to be loaded
20 on the vessel before it is put on. Am I correct
21 about that you three lawyers? Does anyone know
22 anything different from that?

1 MR CHANG: Yes, Judge You're correct.
2 There is a 48-hour rule.

3 MR. VENGROW For the last port of
4 loading going to the United States you've got to
5 advise Customs what the --

6 MR CHANG: Within 48 hours from the
7 last non-U.S. Port import shipments have to be
8 reported to U S Customs It is usually done
9 through the AES system. That is an automated
10 electronic system for filing of such documents
11 with Customs

12 JUDGE GUTHRIDGE: That would be for the
13 last port of loading and we don't know what the
14 last port of loading may have been necessarily.
15 It might be on the -- probably wouldn't be on the
16 APL bill of lading Would copies of all those
17 documents, Mr Chang or Ms. Tarassova, would
18 copies of all those documents that would be
19 created in either Dubai or some other port go to
20 the shipper?

21 MR. CHANG Judge, we're a little
22 unclear on your question Some of these documents

1 would originate from the shipper in Dubai because
2 if they would have been delivered to American
3 President Lines in Dubai, but if Your Honor's
4 question is who gets copies of the U.S. Customs
5 filings I don't know that it would go to the
6 shipper or anyone It would be between the ocean
7 carrier and customs, I believe.

8 JUDGE GUTHRIDGE I see. Would the
9 original documents be created by the shipper? The
10 original Customs' documents?

11 MR CHANG. They certainly should be,
12 Judge, or the party who books to ship with the
13 carrier. In this case the shipper on the APL bill
14 of lading is Middle East Asia So we see the
15 forwarding agent by the name of AEC Cargo Services
16 was somehow involved in this transaction as well

17 JUDGE GUTHRIDGE: Okay The forwarding
18 agent -- in the normal course of business does a
19 forwarding agent -- and I don't know that you know
20 anything about Dubai shipments but just as a
21 general matter anywhere in the world, does a
22 forwarding agent who creates documents for a

1 shipper generally give copies of the documents to
2 the shipper?

3 MR CHANG. Judge, that would be my
4 assumption If the documents didn't come from the
5 shipper itself at some point the shipper should
6 have a copy of all the documents that were
7 submitted

8 MS TARASSOVA. And, Your Honor, just
9 for the record I mean just as MTL is stating that
10 they were not in control of being identified as
11 the consignee it is very plausible that Middle
12 East Asia was also put on there as the shipper by
13 the person that was assisting in doing this. It
14 is our position that Mr. Solovyev was the one
15 helping the complainants in getting the shipment
16 over from Dubai to the United States and therefore
17 it is unclear whether even if there were copies
18 that would naturally go to the shipper if they
19 actually went to Middle East Asia That is
20 unknown and all of these documents could be in
21 possession of Mr Solovyev

22 MR CHANG: Again, I can't speak for

1 Dubai procedures but what complainants' council
2 just posited certainly wouldn't fly for U S
3 exports shipments A shipper is required to
4 submit certain documents They have to be
5 identified as a shipper These documents that go
6 through customs that go to the carrier. The
7 shipper has to sign off and be named as the
8 principle party of interest among other things.
9 They have to provide proof of ownership. It is
10 not simply the case that -- at least we've never
11 heard of a situation where a shipper was put on a
12 bill of lading for his own shipment without his
13 knowledge. That just doesn't seem to comport with
14 common sense, Your Honor

15 JUDGE GUTHRIDGE Yes, and I would
16 think, and Ms. Tarassova correct me if I'm wrong,
17 but didn't Middle East Asia have possession of the
18 boats in Dubai?

19 MS. TARASSOVA: Right, they did

20 JUDGE GUTHRIDGE: And at some point
21 Middle East Asia gave up possession to the boats
22 to a carrier, correct?

1 MS. TARASSOVA: Yes

2 JUDGE GUTHRIDGE: But you're telling me
3 that the complainants have no documents that
4 reflect that transfer which seems unlikely to me
5 but may very well be that they said we don't need
6 any documents just take the boats and get them to
7 the United States That doesn't sound -- it
8 sounds to me like the complainant would certainly
9 have the burden of producing those documents

10 MS. TARASSOVA: I understand that, Your
11 Honor.

12 JUDGE GUTHRIDGE That could answer a
13 lot of questions. Well, I've heard your argument
14 on why you think MTL assumed responsibility for
15 transporting the boats from Dubai to the United
16 States Where is the Shipping Act violation then?
17 Where do you contend the failure to comply with
18 41102(c) occurred?

19 MS TARASSOVA: It occurred at the time
20 that MTL took possession of the cargo and
21 (inaudible) with Mr. Solovyev by producing bogus
22 invoices for storage

1 JUDGE GUTHRIDGE: Wait what do you mean
2 by bogus invoices?

3 MS TARASSOVA: Invoices for storage
4 that were never agreed to. What happened was
5 timeline-wise by the time that these two boats
6 arrived back in the United States respondents also
7 had possession of the larger boat that never left
8 the United States It was originally going to go
9 to Dubai and then it continued to be in possession
10 of the respondents So what happened was when the
11 invoice came out for storage for \$39,000 00 that
12 was an invoice for the storage of the larger boat,
13 the Formula That apparently had been in their
14 possession for a year at that point. So they did
15 not release the smaller boats that had just
16 arrived back in the United States and come into
17 control and custody or possession of the
18 respondents because of the owed storage fees for
19 the larger boat But as time went on it seemed
20 that the two smaller boats also accumulated
21 storage fees that were never --

22 JUDGE GUTHRIDGE Okay. Let me clarify

1 something there for me The boats arrived back in
2 the United States. The 2011 Monterey and the 2008
3 Chaparral arrived in the United States?

4 MS. TARASSOVA: Yes.

5 JUDGE GUTHRIDGE: What notice did the
6 complainants have of that arrival?

7 MS. TARASSOVA: Your Honor, they did not
8 have notice of their arrival. What happened was
9 Mr. Safonov attempted to contact Mr. Solovyev
10 multiple times and I think at some point there
11 maybe was a phone call if I recall from Mr.
12 Safonov's deposition where Mr Solovyev had said
13 that the boats had arrived in I believe July 2014,
14 and when Mr. Safonov had requested that the boats
15 be released Mr Solovyev stopped communicating
16 with him By August 2014 when the complainants'
17 sent a demand to get all three boats back that is
18 when the invoice was issued So as far as an
19 official notice that, hey, your boats are here
20 there was none of that It was Mr. Safonov
21 contacting and trying to get in contact with Mr.
22 Solovyev and then finally Mr Solovyev letting him

1 know, I believe over the phone, that the boats had
2 arrived. And after that there was no more
3 communication until the invoice was issued for
4 storage.

5 JUDGE GUTHRIDGE: Okay. So what again
6 is your contention that would be the alleged
7 violation of 41102 C?

8 MS. TARASSOVA: MTL is alleging that
9 they gave the boats to Solovyev's other company,
10 World Express and Connection. So MTL failed to
11 number one give notice to the complainants' --
12 give official notice that the boats are ready to
13 be picked up, and number two instead of giving the
14 boats back to the complainants' they gave it to
15 World Express and Connection. And then MTL in
16 addition to that allegedly issued what looked like
17 paid invoices or receipts so they had been paying
18 World Express and Connection for the storage fees
19 which we believe are fraudulent, they are not
20 accurate I don't think there is any evidence
21 that Marine Transport and Logistic was able to
22 produce that shows that they actually paid World

1 Express and Connection for anything in relation to
2 those boats But we do have receipts that show
3 that they did So basically Marine Transport and
4 Logistic failed to give notice and release the
5 boats to their rightful owner

6 JUDGE GUTHRIDGE Okay But in so far
7 as it being a Shipping Act violation that is all
8 dependent at the very least on a finding that MTL
9 had assumed responsibility of the transportation
10 of the boats from Dubai to the United States,
11 isn't that correct? I'm not saying there might
12 not be other claims in other forms by complainants
13 against MTL, World Express and everybody else that
14 we've talked about today. But in so far as being
15 a Shipping Act violation which is what this
16 Commission has jurisdiction over, if MTL did not
17 assume responsibility for the transportation of
18 the cargo what jurisdiction does the Commission
19 have over the claim?

20 MS. TARASSOVA In addition to assuming
21 responsibility the only reason that MTL came into
22 custody, control and possession of the property is

1 because they were an NOVCC This is the only
2 reason why the complainants entrusted the property
3 is in connection with international shipping.
4 They would have no other reason to have control or
5 possession or custody over the complainants' cargo
6 if they were not assisting in the international
7 shipping of these goods. And they had a duty in
8 not only properly shipping them but also
9 safe-keeping them and storing them.

10 JUDGE GUTHRIDGE But if they did not
11 assume responsibility for the transportation of
12 the goods then they were not acting as a
13 non-vessel operating common carrier, as an ocean
14 transportation intermediary, on the transportation
15 of that cargo So they received it in some other
16 function it seems to me. Again, it is depending
17 on a finding on whether the evidence in the record
18 -- whether it is established by a preponderance of
19 the evidence that MTL assumed responsibility of
20 the transportation from Dubai to the United
21 States Just because their license is an NVOCC I
22 don't believe just because they have possession of

1 some cargo that came from overseas if they did not
2 transport it. If they did not assume
3 responsibility for the transportation of that then
4 they're holding it in some other function where it
5 may be the Federal Maritime Commission doesn't
6 have jurisdiction.

7 MS TARASSOVA I understand, Your
8 Honor.

9 JUDGE GUTHRIDGE: It is a knotty
10 question and I acknowledge that. But harking back
11 to something I said quite a while ago there seems
12 to be a lot of casualness about everything that
13 went on in this relationship and as long as
14 everything went right it was okay but when it goes
15 wrong then somebody has to figure out whether
16 there has been a violation in this case of the
17 Shipping Act and if so in this case who is
18 responsible You said something about
19 conversations between Safonov and Solovyev about
20 the boats Is there any documentary evidence in
21 the record about the complainants demanding
22 delivery of the 2011 Monterey and the 2008

1 Chaparral when they arrived back in the United
2 States?

3 MS. TARASSOVA Yes, I believe that is
4 covered in the emails that went back and forth let
5 me look. There were several emails that went back
6 and forth and Mr the eventually Mr Solovyev
7 stopped responding to the emails

8 JUDGE GUTHRIDGE: Where in the record?

9 MS. TARASSOVA So the emails begin at
10 CX 19 and goes through to the end where he finally
11 --

12 JUDGE GUTHRIDGE: Are these ones you
13 submitted English translations?

14 MS. TARASSOVA (Inaudible) Your Honor

15 COURT REPORTER. I'm sorry, what was
16 your response, Counsel?

17 JUDGE GUTHRIDGE. There was a
18 supplemental filing of a whole bunch of pages,
19 Complainants' appendix starting at 019 going
20 through I think it is every page up to 110 And
21 19 is the one she just referred to and there is an
22 English translation.

1 MR CHANG. If I could just interject
2 briefly. Maybe for the court reporter's benefit
3 when Ms. Tarassova was responding to the question
4 posed by Your Honor of whether or not English
5 translations were provided her microphone cut out
6 so her response wasn't actually heard from our end
7 and I assume for the court reporter's end either

8 COURT REPORTER: Thank you, Counsel

9 MS TARASSOVA The emails being at CX
10 19. It is series of emails from Mr. Safonov to Mr
11 Solovyev just between the two of them Your
12 Honor, I believe the question was is there
13 anything in writing where Mr. Safonov demands that
14 the boats are returned to him, is that the
15 question?

16 JUDGE GUTHRIDGE Yes

17 MS. TARASSOVA: So it is quite lengthy
18 There are a few emails where it is clear that Mr
19 Safonov starts panicking that Mr. Solovyev is not
20 responding and he does go on and ask -- and I just
21 want to see where they start because there is a
22 bunch of them.

1 JUDGE GUTHRIDGE: You started at 19 and
2 going for the next several pages?

3 MS. TARASSOVA: It is going to 19 all
4 the way through CX 111 The official --

5 JUDGE GUTHRIDGE Those are not all
6 emails, I know I've been through that There are
7 a lot of other things in there that are not
8 emails I'm talking about the demand for the
9 Monterey and the Chaparral after they got back to
10 the United States.

11 MS. TARASSOVA Yes, Your Honor The
12 reason why they're not all emails is because it is
13 actually emails and attachments to the emails.
14 They are in order of the email and whatever the
15 attachment of the email was that is the document
16 that goes after the individual emails

17 JUDGE GUTHRIDGE: Is that why there are
18 several copies of the same invoices and
19 everything?

20 MS TARASSOVA: Yes, Your Honor They
21 are actually the attachments that would have been
22 attached to each particular email. Because they

1 were going back and forth and attaching various
2 invoices and attaching various certificates of
3 title and photographs. Finally, if we look at CX
4 74 that is where Crocus actually demands the boats
5 and it is in Russian at the top and then in
6 English at the bottom. That is an attachment that
7 would have been attached to CX 73. It is an email
8 that is the subject of Crocus Investments'
9 notification to Alek Solovyev. It is dated August
10 13, 2014 And then if you flip to CX 74 that was
11 the attachment that was in the email which is the
12 demand and then if you look on the bottom that is
13 in English. Basically Crocus wrote it in Russian
14 and in English and it says Aleksandr Solovyev
15 required urgently send me you bought three boats
16 Chaparral, Monterey, Formula by address or return
17 the money for these boats in the amount of
18 \$150,000 00. I regard your silence as unlawful
19 withholding of my property and qualify as fraud
20 signed Aleksandr Safonov Then there was another
21 email on CX 75 that was sent on August 13, 2014 --

22 JUDGE GUTHRIDGE: That was the date the

1 other one was, right?

2 MS TARASSOVA On CX 73 it was August
3 13 at 4:44 and CX 75 is August 13 at 4:30.

4 JUDGE GUTHRIDGE: So it is two emails 14
5 minutes apart with the same letter attached?

6 MS. TARASSOVA: It seems so. And then
7 it says subject line CX 75 is notification and
8 then CX 76 would have been the attachment to that
9 email that basically says pretty much the same
10 thing again Then there is an email CX 77 dated
11 August 19, 2014 where -- Crocus Investments'
12 notification is the subject line It says
13 Aleksandr Solovyev -- there is English translation
14 that's what I'm reading. I'm attaching copies of
15 the documents for the boats that were shipped from
16 Dubai by Middle East Asia Alpha to your company
17 MTL based on the agreement between partners
18 Bartcov, Oleg and Safonov, Aleksandr. I have the
19 last say in this company in case of not meeting of
20 lawful demands I will be forced to go through the
21 legal system in the USA And then he attaches the
22 certificate of title for the boats.

1 JUDGE GUTHRIDGE. I'm looking at your
2 translation that you just read I am attaching
3 copies of the documents for the boats that were
4 shipped from Dubai by Middle East Asia to your
5 company MTL. It doesn't say anything there at
6 least in this email on August 19, 2014 that Mr.
7 Safonov was thinking in terms of MTL transport
8 This indicates that MTL was the recipient shipped
9 by Middle East Asia by Mr. Safonov's company to
10 MTL Is the only document the certificate of
11 title?

12 MS TARASSOVA: That he attached to the
13 email?

14 JUDGE GUTHRIDGE The email refers to
15 documents for the boats that were shipped from
16 Dubai to Middle East Asia but the only documents I
17 see attached are the certificates of title

18 MS TARASSOVA Your Honor, I guess
19 that's all he knew to attach This is all he knew
20 to write and to attach I don't think we can look
21 at this one email and say it should have had all
22 the information in it. This is the only thing he

1 could think of and this man is obviously panicking
2 that he's lost all contact with the respondents
3 and they have his property They've been in
4 contact, good contact, throughout their
5 transaction and that's supported by the emails
6 prior starting at CX 19 Mr. Solovyev would
7 always respond, so I think that we can't look at
8 this email and say that Mr Safonov knew the
9 proper language to put in there but to answer your
10 question he definitely gave notice and requested
11 that his property be returned

12 JUDGE GUTHRIDGE But in so far as it
13 being a Shipping -- let's assume that MTL had the
14 boat which I think we know they did and maybe
15 perhaps should have turned them over to Safonov
16 I'm not sure where they would do that I don't
17 know if Mr Safonov said I've got somebody coming
18 around to pick them up or anything like that but
19 let's assume that it may very well only be a
20 Shipping Act violation if MTL transported the
21 cargo. If they were the recipient of cargo and
22 not involved in the transportation, then it

1 doesn't seem to me that the Shipping Act would
2 apply to them That's the problem I have to
3 answer.

4 MS TARASSOVA: It sounds like the
5 Court's issue is that there is not enough written
6 documentation on that issue and that is why I want
7 to suggest that Mr. Safonov is -- I want to
8 suggest that the Court inquire as to the relevant
9 information directly from Mr. Safonov in and
10 evidentiary hearing.

11 JUDGE GUTHRIDGE He put that in his
12 declaration. That came in and unless his
13 testimony is going to differ from his declaration
14 which in and of itself might be a problem then
15 what other evidence would he submit?

16 MS TARASSOVA. Well, I guess it would
17 be more in detail and the Court would be able to
18 ask him supplemental questions about how they
19 arranged the shipment and what MTL's involvement
20 is. The certification has general statements but
21 I don't know if it would assist the Court in
22 making this decision by asking specific questions

1 in regard to the arrangements and how it was done
2 because we do not have documentation. The reason
3 we don't have documentation is maybe the
4 complainants', like you said, did not think it was
5 important enough to keep everything organized and
6 keep a record of everything. It seems they did
7 throw these transactions together haphazardly but
8 at this point the complainants are alleging that
9 MTL and Solovyev were the ones that arranged the
10 shipment and they were responsible for everything.
11 Other than their testimony they don't have
12 documentation but they do have other
13 circumstantial evidence such as emails where Mr
14 Solovyev knew that the boats were being shipped
15 from Dubai and even though the emails are to other
16 entities that were not involved it still shows
17 that Mr. Solovyev knew He was in his signature
18 block the way he held himself out is some kind of
19 an extension of MTL. He was an agent for MTL in
20 his signature block in the email block so I think
21 circumstantial evidence does show that it is more
22 likely than not that MTL was aware of this

1 shipment and assisted the complainants with it

2 JUDGE GUTHRIDGE What other evidence

3 would you anticipate presenting? I would have

4 assumed after I sent out the inquiry for wanting

5 the documents and you responded with Mr Safonov's

6 statement that he would have put absolutely every

7 bit of information he had about this transaction

8 in there and would have put absolutely all the

9 emails that he had regarding the transportation

10 from Dubai back to the United States in the

11 original appendix That's where the documents,

12 the emails you just referred to about the alleged

13 arrangement by MTL or involvement in the

14 arrangement of that shipping by MTL, are

15 contained The burden of proof is on the

16 complainant here What other evidence would you

17 be telling me? If it is just Mr. Safonov coming

18 in and saying I really think this is the way it

19 happened with no evidence that really doesn't get

20 you very far.

21 MS TARASSOVA I'm referring to

22 specific detailed questions that he may be able to

1 answer better. I understand that he filed a
2 certification and it is accurate and it is sworn
3 so I'm just saying if the Court has additional
4 questions or details that it may need to consider
5 in regards to how this transaction was arranged he
6 would be able to better answer that. I don't know
7 what would help the Court My issue is that even
8 though he does not have or they do not have
9 documentation they can explain how it happened and
10 the Court can take into consideration everything,
11 the totality of the circumstances. If the Court
12 does not feel that additional information is
13 required from the complainants as far as testimony
14 is concerned, then I would just stand by what I
15 said originally which is if you look at everything
16 that we have so far it does indicate that MTL and
17 Mr. Solovyev were involved in this transportation
18 from Dubai to New Jersey.

19 JUDGE GUTHRIDGE: Okay We haven't
20 talked much yet about the Formula So let's talk
21 about the Formula boat. That was purchased on
22 August 7 it indicates at Complainants' Appendix

1 118 and purchase price and an extra \$3,500.00 is
2 listed at complainant's appendix 009 for delivery.
3 What was that delivery for, Ms. Tarassova?

4 MS. TARASSOVA. Your Honor, it is
5 unclear what that delivery is for because it does
6 not specifically state it in the invoice. I
7 understand that it is the respondents' position
8 that it was some kind of inland delivery from the
9 auto auction to MTL's warehouse It is my
10 client's position that they understood that it was
11 for delivery to Dubai. But it is unclear as to
12 what specifically they meant by delivery My
13 clients' know that they paid the invoice for the
14 cost of the boat and the cost of delivery. It
15 seems that the parties are not in agreement on
16 what --

17 JUDGE GUTHRIDGE Mr. Chang, what is
18 your position on that?

19 MR CHANG Judge, if I could just have
20 two minutes I'm reading through Complainants'
21 Finding of Fact because I think this may have been
22 addressed there As far we - the respondents'

1 position is that was just for the inland movement
2 and delivery. There is another invoice actually
3 in the Complainants' Appendix where the cost for
4 freight is separately set out.

5 JUDGE GUTHRIDGE The \$12,000.00?

6 MR. CHANG Correct, and that
7 specifically identifies the loading and shipping
8 through Dubai. That is CX 031, I believe So to
9 the extent there is some confusion about what
10 delivery means I think the presence of this
11 additional \$12,000 00 charge indicates that -- it
12 does not mean the ocean carrier to Dubai.

13 JUDGE GUTHRIDGE: I see on page 31 a
14 receipt -- an invoice 1189 AT dated August 7,
15 2013 Boat cost \$56,280.00 delivery \$3,500.00
16 then loading shipping to Dubai \$12,000.00 and a
17 \$500 00 commission, \$500.00 documentation and
18 \$4,500.00 for the trailer. Do you see that, Ms
19 Tarassova?

20 MS TARASSOVA: Can you please cite the
21 page number again?

22 JUDGE GUTHRIDGE Complainants' Exhibit

1 31

2 MR. CHANG: Your Honor, there is also --
3 sorry go ahead, Ms. Tarassova.

4 MS TARASSOVA. Yes, Your Honor, this is
5 one of a number of invoices that went back and
6 forth between Mr. Solovyev and Mr Safonov. I
7 believe that then there is another invoice that
8 they actually paid There are multiple invoices
9 that were attached to these emails that were going
10 back and forth and I believe that they were trying
11 to decide what the price was, et cetera All I
12 know is that the complainants paid \$59,000 00 they
13 did not pay the 77 to 80 as this invoice

14 JUDGE GUTHRIDGE: Okay.

15 MR CHANG. Your Honor, there is also
16 Complainants' Exhibit 28 which is dated December
17 3, 2013 and that is a separate invoice that was
18 issued just reflecting the same amount of the
19 loading and shipping of \$12,000 00 plus commission
20 and documentation. I think the presence of this
21 latter invoice certainly supports the fact that
22 the \$12,000 00 is for loading and shipping in

1 ocean carriers to Dubai. On that note it was a
2 very large boat that had to be loaded on deck It
3 required special equipment so the \$12,000.00
4 shipping is not atypical.

5 JUDGE GUTHRIDGE: Were the other two
6 loaded into containers?

7 MR CHANG: That's correct, Your Honor.

8 JUDGE GUTHRIDGE: Let me tell you the
9 real problem -- the ultimate problem I have with
10 the Formula and Commission jurisdiction. That is
11 that the Formula never left the United States. It
12 was never involved in ocean transportation by
13 water from the United States to a foreign port.
14 It was transported from I think from something
15 about Brookhaven, New York to where, Brooklyn?

16 MR CHANG To the Port of New Jersey

17 JUDGE GUTHRIDGE And it never left the
18 country. So, Ms Tarassova, I don't know what
19 gives the Commission jurisdiction to do anything
20 about the Formula.

21 MS TARASSOVA Your Honor, the idea was
22 for MTL to ship the boat to Dubai and that is the

1 reason why the respondents had the boat in the
2 first place It is important to understand that
3 the reason that the complainants' -- Mr Solovyev
4 is because of his representation of his -- mainly
5 because he was able to ship goods internationally.
6 It was initially -- and there is emails that state
7 that basically the boat was supposed to go to
8 Dubai and it was contemplated that it would go to
9 Dubai and therefore it is our position that the
10 respondents had possession, custody or control
11 over the property because it was going to be
12 shipped internationally It never happened but
13 that was the intent and that is how the
14 respondents came into possession of it.

15 JUDGE GUTHRIDGE: Did the complainants
16 ever pay the \$12,000.00 payment for shipping to
17 Dubai? The loading, shipping to Dubai, and
18 \$500 00 commission, \$500.00 documentation?

19 MS TARASSOVA. Are you talking about
20 did the complainants pay for the invoice?

21 JUDGE GUTHRIDGE: Did the complaints pay
22 to ship the Formula to Dubai?

1 MS. TARASSOVA: We know that they paid
2 for a delivery. It is unclear what delivery they
3 paid for. It seems that there are additional
4 invoices that state that the actual delivery to
5 Dubai is higher. It is unclear as far as whatever
6 happened to those invoices because Mr Solovyev
7 and MTL never pursued those invoices What we
8 have here is one invoice with the delivery fee is
9 paid and the other one there are multiple invoices
10 and different variations for different deliveries
11 that were not paid, Your Honor

12 JUDGE GUTHRIDGE: Do you have any
13 evidence, Ms. Tarassova, that \$3500 00 was for
14 delivery to Dubai or anywhere other than delivery
15 to Port of New Jersey?

16 MR CHANG: That's correct, Judge

17 MS TARASSOVA: No, Your Honor, I do
18 not

19 JUDGE GUTHRIDGE Okay Then I know
20 there is deposition testimony from Mr. Safonov
21 that he began to suspect that Treacyacov, the
22 Middle East Asia employee in Dubai, and I have it

1 down here as a quote "started to become a crook."
2 That is at Respondent's Appendix 72, it is the
3 deposition of Safonov page 65 lines 3 to 6
4 Safonov decided he did not want to ship the
5 Formula to Dubai and consequently the Formula
6 never left the United States. Apparently, Ms.
7 Tarassova, the complainants never paid to have it
8 shipped overseas So I'm not sure where the
9 Commission has any jurisdiction at all. I'm not
10 saying that they're not claims that the
11 complainants have against the respondents, but I'm
12 just not sure that those claims are properly in
13 the Federal Maritime Commission

14 MS. TARASSOVA: Your Honor, I think
15 where jurisdiction stems is the respondents were
16 engaged in starting in the shipment of the
17 international That it was later canceled I don't
18 think matters because the respondents came into
19 possession of the boats because they were going to
20 ship the boats internationally So the problem is
21 when cargo goes into possession, control or
22 custody of an NVOCC in relation to international

1 shipment and then, for example, that shipment gets
2 canceled the NVOCC cannot have unjust practices
3 where they're just giving up the property to
4 somebody else. They still have responsibility to
5 return it to its rightful owner.

6 JUDGE GUTHRIDGE Are you talking about
7 the Formula?

8 MS TARASSOVA. I'm talking about the
9 Formula They have a responsibility that even if
10 the shipment is canceled to properly give the
11 property back or notify the rightful owners They
12 just can't give it to another company as MTL did,
13 they allegedly submitted it to World Express and
14 Connection, and then submitted invoices that
15 supported the fact that MTL paid for storage when
16 it is our position that they never did. But where
17 they violate the Shipping Act is when they were
18 engaged in the international shipment and then at
19 some point was canceled but they still owed a
20 duty

21 JUDGE GUTHRIDGE: Let me ask you this
22 The boats got to MTL or World Express -- I mean I

1 think I recall from the record that MTL does not
2 have a storage facility of its own, is that
3 correct, Mr Chang?

4 MR CHANG That is correct, Judge

5 JUDGE GUTHRIDGE And they use World
6 Express because it does have a cargo storage area
7 I think there is evidence in the record about
8 that

9 MR CHANG: Correct

10 MS. TARASSOVA And, Your Honor, it is
11 our contention that that is simply a way for Mr.
12 Solovyev to protect himself from any liability
13 It should be noted that World Express and
14 Connection is located at the same address of MTL.
15 MTL is if you look at their public website
16 advertises and has photographs of storage units
17 and places where they store containers and things
18 like that So even though that is their position
19 that they do not handle the storage portion of it
20 it certainly was a surprise to the complainants to
21 find out that in fact a different entity
22 technically stores the goods.

1 JUDGE GUTHRIDGE: The Formula got to MTL
2 in August 2013, correct?

3 MS TARASSOVA: Yes, Your Honor

4 JUDGE GUTHRIDGE: And was it being
5 contemplated that the Formula would be sent to
6 Dubai, is that correct?

7 MS. TARASSOVA Yes, Your Honor It was
8 contemplated all the way through December when the
9 second invoice for the trailer --

10 JUDGE GUTHRIDGE: That was my attorney
11 advisor that left the conference. I'm sorry, say
12 that again

13 MS TARASSOVA: Yes, it was contemplated
14 that the Formula be shipped to Dubai by MTL all
15 the way from August through December because there
16 are emails going back and forth in regards to
17 purchasing a trailer in order to ship it RO-RO and
18 that was -- the complainants paid for the trailer
19 in December 2013 So for six months there was a
20 plan was to eventually ship it to Dubai.

21 JUDGE GUTHRIDGE: August to December
22 would be four months is that what you're saying?

1 MS TARASSOVA: Yes, Your Honor

2 JUDGE GUTHRIDGE: Okay. So for that
3 period of time what efforts did -- let me back up
4 I saw reference in the exhibits to one that MTL or
5 Solovyev --

6 MS. DIKE: I'm sorry I got kicked out.
7 I apologize.

8 JUDGE GUTHRIDGE She's back That
9 somebody found a trailer in November that would
10 permit shipment RO-RO and that was rejected by
11 Safonov, is that correct?

12 MS TARASSOVA: Yes, I believe that
13 Solovyev was looking for a trailer and sending
14 Safonov photographs of the trailer and then
15 Safonov was to decide whether the trailer would be
16 something that would work for him and for the boat
17 or not So yes there was a rejection at some
18 point and then I believe they ended up finding a
19 trailer

20 JUDGE GUTHRIDGE Okay And then in
21 December they found a trailer I think is when that
22 was, is that correct?

1 MS. TARASSOVA: Yes, Your Honor.

2 JUDGE GUTHRIDGE: And that is December
3 2013 And then when was it they decided not to
4 ship the Formula to Dubai?

5 MS TARASSOVA: I believe there was an
6 email in February 2014 where Mr. Safonov says
7 something like -- I'm trying to identify where it
8 is but he said good thing we didn't get to ship it
9 to Dubai yet

10 JUDGE GUTHRIDGE: I think there was
11 something in his deposition about that.

12 MS. TARASSOVA I think so as well, yes

13 JUDGE GUTHRIDGE I'm not finding it in
14 my notes It raises -- and this is how this might
15 play out Let me ask you this, Ms. Tarassova, do
16 you think that the complainants did not owe
17 anything at all for storage for the Formula from
18 August to December or February whichever it is
19 that the final decision was made?

20 MS. TARASSOVA Your Honor, logically
21 speaking I think that they would owe something
22 If you look at the background, and this is in the

1 beginning of our conversation, you asked why the
2 other cars that Mr Solovyev sent over to Dubai
3 were relevant and that I say that it was for
4 purposes of the background of their business
5 relationship I believe the reason why the
6 respondents never issued any sort of invoices
7 during the time the boat was going to be shipped
8 to Dubai while they were looking for a trailer, et
9 cetera, so basically from August 2013 through
10 February 2014 is because they were also aware that
11 the complainants were doing something in their
12 benefit. So it just shows that obviously number
13 one no invoices were issued, there was no demand
14 for payment of storage, there was no agreement to
15 pay storage, the only thing that we have is MTL's
16 tariffs which are completely a different storage
17 fee then what was charged If you look at the
18 number of communications between Mr Solovyev and
19 Safonov there was no mentioned of storage fees
20 from August 2013 until August 2014. That is the
21 big problem here is these storage fees are
22 exorbitant and they came out of nowhere It is

1 very interesting that MTL claimed to have paid
2 World Express and Connection for storing the
3 Formula for an entire year if MTL had been paying
4 World Express and Connection for storage of the
5 Formula for an entire year why were the
6 complainants never notified?

7 JUDGE GUTHRIDGE Do you have a response
8 to that, Mr. Chang?

9 MR. CHANG Yes, Judge. I would just
10 like to make a quick comment about the MTL tariff
11 which was mentioned. MTL's tariff does have a
12 storage rate but it for shipments that are booked
13 for export with MTL and it is only for exports,
14 and as Your Honor pointed out with regard to the
15 Formula not only was no shipment ever booked, no
16 booking instructions were ever made, no booking
17 confirmation was ever generated and indeed no
18 payment for the ocean freight was ever made So
19 it wasn't an export shipment it was a boat that
20 was delivered to the Port of New Jersey It
21 seemed like Complainant, Mr. Safonov, was waffling
22 a little bit on what to do with this boat for

1 several months.

2 JUDGE GUTHRIDGE: Wait a minute let me
3 interrupt you there for a minute, Mr. Chang. The
4 tariff, and I've got it in front of me, it says
5 except as otherwise provided herein carrier
6 provides 30 calendar days' free storage prior for
7 vehicles, trucks and boats received for U S.
8 export shipments at its CFS/CY does that mean
9 container freight station? Container yard?

10 MR. CHANG: Yes.

11 JUDGE GUTHRIDGE As listed herein.
12 Beyond 30-day storage charges per day apply as
13 follows Well when the boat went to MTL which as
14 I understand that's where it went, is that
15 correct? From Copart when it came in from Copart
16 did it go to MTL?

17 MR CHANG: It went to the World Express
18 warehouse, Judge. They are both at the same lot
19 It is a lot that houses multiple companies. It is
20 not just the two companies operating out of the
21 same office It is a suite of offices I think
22 with regard to your question about the tariff it

1 is referring to property that is received by MTL
2 for U.S. export shipment 30 days' free time
3 contemplates cargo that is booked for shipment and
4 I think the Formula boat would not be included

5 JUDGE GUTHRIDGE Well, isn't it MTL
6 that was -- Ms Tarassova just said that MTL
7 charged for storage at some point. Did MTL not
8 issue any charges for storage?

9 MR CHANG: It did not, Your Honor. Ms.
10 Tarassova mentioned World Express invoiced MTL as
11 part of their commercial relationship as they are
12 two distinct companies. So World Express was
13 invoicing MTL but MTL was not invoicing any third
14 party.

15 JUDGE GUTHRIDGE: Where is the paperwork
16 in the record, Ms Tarassova, about -- that sort
17 of sets forth the chain of custody of the Formula
18 from the time it left Copart to the time it got to
19 where it is now?

20 MS. TARASSOVA: Your Honor, if we look
21 at CX 261 and flip through it is a number of
22 invoices from World Express and Connection to MTL

1 that are stamped as paid This is something that
2 was produced by the respondents basically showing
3 that MTL had been paying World Express and
4 Connection for the storage of the Formula boat
5 It looks like CX 261 is an invoice for February
6 14, 2014 in the amount of \$20,137.66 for 186 days
7 of storage.

8 JUDGE GUTHRIDGE: Good point, Mr. Chang.
9 If World Express was billing MTL for storage of
10 the Formula wouldn't that indicate when the
11 Formula got to the Port of New Jersey it was in
12 the custody of MTL as contemplating export?

13 MR. CHANG: Judge, I think as was
14 discussed earlier the practice between the parties
15 was for these boats to move overseas The
16 specific Formula for whatever reason Mr Safonov,
17 the complainant, elected to depart from the
18 standard practice. The boat was arranged for
19 delivery by Car Express through the warehouse.

20 JUDGE GUTHRIDGE: So for the first 30
21 days it was free or it should have been. It looks
22 here like on 261 like they actually charged for

1 the first 30 days

2 MR CHANG. Had there been a booking for
3 export then there would have been 30 days' free
4 time as per the MTL tariff. So a shipment that
5 never gets booked for export there wouldn't be 30
6 days' free time because the free time is in
7 contemplation of the NVOCC earning on the ocean
8 freight. What seemed to happen in this case as a
9 result of commercial considerations overseas there
10 was never a need for an export and the
11 complainants were looking for free storage.

12 JUDGE GUTHRIDGE. So it is a question
13 then although it might have been in the
14 contemplation of everybody when the formula was
15 purchased and sent from Copart to the Port of New
16 Jersey why would you send it to a port if it was
17 not going to be shipped, if it wasn't contemplated
18 to be shipped The fact that it never was means
19 it was not actually received for export and
20 subject to the tariff, is that what you're saying?

21 MR. CHANG That's correct, Judge
22 Without instructions to ship, without payment to

1 ship, without a booking ever being made I don't
2 know that MTL would be in any position to act as a
3 carrier.

4 JUDGE GUTHRIDGE: We still have the fact
5 that whatever its function on that boat, on the
6 Formula, it never was transported It was never
7 transported by water from a port to a point in the
8 United States and a port or point in a foreign
9 country and so we get back to Commission
10 jurisdiction to do anything at all Ms.
11 Tarassova?

12 MS TARASSOVA: Yes?

13 JUDGE GUTHRIDGE What are your thoughts
14 on that? The other thing would be that if it was
15 not received for shipment overseas it would not be
16 subject to the tariff and even if it was subject
17 to the tariff at some point when it was decided
18 that it was no longer contemplated that it would
19 be shipped overseas why would the tariff still
20 apply for dates after that?

21 MS. TARASSOVA. Your Honor, the
22 respondents had a duty in the proper receiving,

1 handling, storing and delivering property. It is
2 our position that they were engaged in shipping
3 the boat overseas. It is our position that it was
4 their own delay in shipping it There was a
5 trailer issue as we mentioned that initially the
6 complainants paid for the trailer for it to be
7 shipped immediately. The respondents came back --

8 JUDGE GUTHRIDGE: Wait back up there.
9 Where does it indicate that the complainants paid
10 for the trailer for it to be shipped immediately?

11 MS TARASSOVA: Your Honor, we submitted
12 a printout of the bank wire transfer the
13 complainants submitted as proof of payment of
14 \$5,000.00 for which the complainants --

15 JUDGE GUTHRIDGE: Where in the record is
16 that?

17 MS TARASSOVA Give me just one second.
18 CX 114 is actually a deposit printout and the
19 complainants on August 13, 2013 wired \$5,000.00
20 and it has a reference number here That is what
21 the complainants are alleging that is the proof
22 that they paid the \$5,000 00 for the trailer. A

1 couple of days after they paid the \$59,780 00 for
2 that invoice for the cost of the boat and a
3 delivery charge which it is unclear what the
4 delivery charge was

5 MR CHANG: Judge --

6 JUDGE GUTHRIDGE: Yes, it was \$5,000.00
7 but a trailer was not actually purchased until
8 December, is that correct?

9 MS. TARASSOVA: According to Mr
10 Safonov's testimony is that Mr. Solovyev had
11 contacted him again around November and stated
12 that he needed the trailer in order to transport
13 the Formula and Mr Safonov having forgotten that
14 he already wired the \$5,000.00 ended up wiring
15 another \$4,950.00 on it looks like December 4,
16 2013 So initially it is the complainants'
17 position that they paid for the boat, paid some
18 type of a delivery charge and paid \$,5000.00 for
19 the trailer and waited for the boat to be shipped
20 and then realized the boat was not being shipped
21 because the trailer had not been purchased yet
22 Paid for trailer again under the impression that

1 the boat would be shipped and then at some point
2 cancelled the order I believe in February 2014.

3 JUDGE GUTHRIDGE: What links this
4 \$5,000 00 to a trailer? The 8/13 payment that you
5 just referenced what links that to a trailer? Are
6 these all payments to -- what links it to MTL?

7 MS. TARASSOVA Your Honor, that's all
8 the complainants have in order to prove that they
9 wired the \$5,000 00 I'm trying to look at Mr
10 Safonov's deposition transcript to see if he gives
11 clarification on that.

12 JUDGE GUTHRIDGE: I see a payment on the
13 9th the \$59,780.00 which lines up with the payment
14 for the boat and the delivery charge but then four
15 days later there is a \$5,000.00 payment but it
16 just says wired out 028409 but who did it go to?
17 What indicates who it went to?

18 MS TARASSOVA: That document does not
19 indicate who it goes to, Your Honor I believe it
20 was in Mr. Safonov's deposition transcript where
21 he described how that transaction occurred

22 MR CHANG. Judge, if I may I think a

1 lot of this goes to the question of really which
2 party was responsible for the delay and ultimate
3 non-shipment. I understand Counsel is pinning the
4 blame on respondents for this but I think the
5 documents that are in the appendix in the record,
6 certainly and deposition transcripts and the
7 correspondence, show that respondents were
8 requested to procure a trailer for the Formula. A
9 trailer was procured by November 2013 then Mr.
10 Safonov rejected that trailer A second trailer
11 was found by December 2013 but again for whatever
12 reason -- possibly because Mr Safonov's problems
13 with his Dubai company made the decision at that
14 point unilaterally not to ship it to Dubai There
15 was some correspondence in the record where he
16 indicates that he was glad that he never shipped
17 it to Dubai because that was a losing proposition
18 for him. So I don't see how Complainants can
19 really put any of the delay or the non- shipment
20 on Respondents especially when it seems like Mr
21 Safonov certainly by December 2013 no longer
22 wanted to ship it to Dubai and we all know that

1 ultimately he wanted it shipped not to Dubai but
2 to Florida MTL wouldn't be able to do that
3 shipment anyway. It would be an inland move from
4 New Jersey to Florida certainly not by ocean

5 JUDGE GUTHRIDGE: I was going to ask
6 does MTL engage in domestic shipments?

7 MR. CHANG: No. There is a letter CX 74
8 undated but Complainants represented to be some
9 sort of demand for MTL to ship the boats from New
10 Jersey to Florida and that is not something that
11 MTL itself does.

12 JUDGE GUTHRIDGE Does it require a
13 special license that it does not have or what is
14 the reason?

15 MR. CHANG: Certainly by water it
16 couldn't be done by MTL if it was traveling on
17 U.S. domestic waterways MTL itself doesn't own
18 any trucks to perform inland domestic moves It
19 would probably be subcontracted out to a trucker
20 designated by Complainant.

21 MS. TARASSOVA: Your Honor, I was able
22 to find in Mr Safonov's transcript at RX 72 it

1 looks like on page 62 line 21 Mr Safonov --

2 JUDGE GUTHRIDGE Hold on, wait a
3 minute. Let me find the right book.

4 MS TARASSOVA This is the respondents.
5 RX 72 this is the transcript, we're looking at
6 page 62 line 21 where Mr. Safonov was asked do
7 you remember paying for ocean freight for Formula
8 and he says yes from bank PNC Do you remember
9 when the payment was made? I have the bill or
10 statement at home but I don't remember precisely
11 but in summer in July and then it goes on to talk
12 about the specifics about what Mr. Safonov's
13 understanding was in shipping the boat. He goes
14 on to talk about Mr Solovyev stated that he
15 thought on line 13 page 63 I thought it would take
16 at least two months And the question is, so
17 approximately two months afterwards do you know if
18 the Formula was ever shipped from the U.S.?
19 Answer No, it was not shipped from the United
20 States question Question: By November 2013
21 after more than two months had passed did you ask
22 anybody why the Formula had not been shipped?

1 Answer No, I didn't ask because I knew that I
2 was aware of what happened The question: Okay,
3 by December 2013 were you concerned that the
4 Formula had not arrived in Dubai yet? Answer.
5 No, I was not concerned that it didn't make it
6 because initially we were trying to agree on the
7 shipping cost of the Formula 24 boat So Solovyev
8 was supposedly trying to find proper shipping
9 container because it was big and we knew that
10 because Formula boat is bigger and is more than 24
11 feet so there is no shipping container as is to
12 put it in. The size of boat has to be mounted or
13 somehow on the deck of the ship lower deck.
14 Solovyev, in order to have it shipped on the deck
15 of the ship it has to be installed on that
16 trailer Solovyev was looking or trying to find
17 that size of a trailer so the boat could fit
18 Also I asked him to find a car or truck actually
19 that would be capable of towing the trailer with
20 this boat Question: Do you remember when you
21 asked Mr Solovyev to find such a trailer?
22 Answer. Initially he offered some trailer that he

1 found in November but I didn't like that trailer.

2 Question: Did you eventually agree on a trailer

3 with Mr Solovyev? Answer Yes, in December he

4 sent me picture good or proper trailer I think

5 it is suitable and I paid for that trailer.

6 Question Did you contact or communicate with Mr.

7 Solovyev at that time to instruct him to ship the

8 boat to Middle East? Answer. No, I did not

9 continue that because at that time I noticed that

10 his friend Andrey Trecyacov started to become a

11 crook or crooked activities stealing, hiding. I

12 noticed that so at that point I decided I don't

13 want to deal with the crooks so I instructed him

14 to ship the boat to Miami So it looks like in

15 December is when he canceled the shipment to

16 Dubai But throughout the time it is evident from

17 Mr. Safonov's statements that he was under the

18 impression that Mr. Solovyev was putting efforts

19 into shipping the boat overseas

20 MR CHANG I disagree with that

21 characterization based on the transcript. The

22 final question and answer that was read indicated

1 that Mr Safonov had at no time instructed Mr
2 Solovyev to ship the boat to the Middle East The
3 transcript testimony that was just read only
4 reflects the efforts by Mr Solovyev to procure a
5 trailer and that's it

6 JUDGE GUTHRIDGE Okay, be that all as
7 it may, it may very well be that the Commission
8 doesn't have any jurisdiction over the Formula or
9 what happened to the Formula because it was never
10 shipped internationally. It was received by MTL
11 at some point or by somebody and it goes back
12 maybe to sort of the casual way in which both
13 parties treated this, their whole relationship
14 But where Complainant has to prove by a
15 preponderance of evidence a violation of the
16 Shipping Act it has to be --

17 MS TARASSOVA Your Honor, if I may --

18 JUDGE GUTHRIDGE: Let me finish It has
19 to involve transportation by water and it has to
20 involve and international shipment and the Formula
21 was never shipped internationally That is the
22 sticking point I have on the Formula

1 MS TARASSOVA If I may respond to
2 that.

3 JUDGE GUTHRIDGE: Sure.

4 MS TARASSOVA 46 U.S.C. 41102 ' (c)
5 which is titled Practices and Handling Property
6 states that a common carrier, marine terminal
7 operator, ocean transportation intermediary may
8 not fail to establish, observe and enforce just
9 and reasonable regulations and practices relating
10 to, connected with, receiving, handling, storing
11 or delivering property. So it is obvious that if
12 it never made it overseas -- I mean if it never
13 made it overseas does not mean that the
14 respondents do not have a duty to establish
15 reasonable practices in receiving, handling and
16 storing the boats. There are four separate duties
17 under the statute so delivering the property is
18 just one of them But receiving, handling and
19 storing are three other ones

20 JUDGE GUTHRIDGE What was not
21 reasonable about what they did?

22 MS. TARASSOVA. They submitted the

1 property --

2 JUDGE GUTHRIDGE. Assuming MTL had
3 assumed control of the property even if it had not
4 shipped it overseas

5 MS. TARASSOVA Right, it seems what MTL
6 did was they gave possession over to World Express
7 and Connection and allowed --

8 JUDGE GUTHRIDGE: That assumes that MTL
9 had assumed control of the boat to being with. I
10 guess what would -- with the other boats that were
11 shipped and let's say the 2008 Chaparral and the
12 2011 Monterey the parties basically we're talking
13 here about Safonov and Solovyev went on the
14 internet, had this deal Safonov said I want to
15 buy this boat, Solovyev would handle the purchase
16 of the boat through his Car Express company and at
17 some point acting as agent as I understand it for
18 MTL the transportation would be arranged. So did
19 MTL have any responsibility for the Monterey
20 before the creation of the contract of carriage or
21 until that point was the custody of the boat of
22 the 2011 Monterey in either Car Express or one of

1 Solovyev's other companies and did not go to MTL
2 until there was actually an arrangement of
3 transportation. I think for what you're saying,
4 Ms Tarassova, there is a presumption that once
5 the purchase was made from Copart and the boat
6 started its winding its way from -- I think it was
7 stated that it was purchased in Brookhaven, New
8 York -- that MTL assumed custody somehow or other
9 at that point, but did it? It may not -- and it
10 is the same with the Formula. Until there is an
11 actual agreement to transport the cargo by water
12 to a foreign port then had MTL a separate company
13 actually assumed any responsibility at all for the
14 Monterey or did it ever assume responsibility for
15 the Formula?

16 MS. TARASSOVA For the Formula, yes,
17 Your Honor, and it is evidenced by the invoices
18 that MTL purports to have paid to World Express
19 for the Formula.

20 JUDGE GUTHRIDGE: That's true yes

21 MS TARASSOVA So what we have here is
22 MTL is purporting to have paid World Express over

1 \$40,000.00 from the time the boat was purchased
2 So I cannot see it any other way Why would MTL
3 take the responsibility and make payments for this
4 Formula. Why would MTL that was not -- if we look
5 at the respondents' position that they were not
6 engaged in any kind of shipment activity that they
7 haven't booked anything or didn't even had it in
8 their system why would MTL pay World Express over
9 \$40,000.00 in storing the boat if it was not
10 responsible for it? That is my issue. I mean we
11 have invoices that are stamped paid

12 JUDGE GUTHRIDGE Response, Mr Chang?

13 MR. CHANG: This question was actually
14 posed at the deposition of Ms. Alla Solovyev on
15 behalf of MTL The answer is that it was simply
16 part of their commercial relationship where these
17 invoices would be sent by World Express to MTL for
18 goods that were for lack of a better word passed
19 along through MTL. I think the real question here
20 as far as Shipping Act jurisdiction is whether MTL
21 was acting as a common carrier Whether it was an
22 NVOCC or an OTI, and in order to do so MTL would

1 have had to assume responsibility from either port
2 to port or port to point and that is the
3 responsibility that is governed by their bill of
4 lading or their contract of carriage. I think in
5 this situation certainly when there is no bill of
6 lading that ever issued Complainants can't say
7 that MTL assumed responsibility for an ocean move.

8 JUDGE GUTHRIDGE. But we do have the
9 situation where the NVOCC did unarguably as
10 evidence by its paying the storage fees. Some
11 responsibility for the boat and had it in its
12 custody and how does that does that affect -- I
13 appreciate the fact that the Commission can only
14 operate where it has jurisdiction and generally
15 that does require the contract of carriage, the
16 bill of lading having been issued Some agreement
17 to actually transport it Here we have sort of an
18 Inco aid agreement to transport it The question
19 is whether that inchoate agreement and of course
20 conduct with at least two other boats and maybe a
21 whole bunch of others so it adds a wrinkle to
22 that. I don't know. I'm going to have to think

1 about this

2 MR CHANG. Judge, I really think we're
3 looking at two questions and the first question
4 which might answer your question to me is whether
5 or not a warehouse, let's say for World Express in
6 this example, has responsibility for the storage
7 and I think the answer obviously is yes. But that
8 responsibility isn't Shipping Act responsibility
9 or carrier responsibility but simply the
10 responsibility of a warehouse that was hired for
11 storage

12 JUDGE GUTHRIDGE You're talking about
13 World Express and what Ms. Tarassova is talking
14 about is the fact that MTL appears to have paid
15 those storage fees Why did MTL think it had an
16 obligation to pay storage fees if it wasn't
17 somehow responsible for the boat?

18 MR. CHANG. I think the answer really is
19 that it was part of the practice and the
20 relationship between MTL and World Express. When
21 World Express would generate these invoices MTL
22 would pay them sort of as a matter of course

1 because they do have a working relationship.

2 JUDGE GUTHRIDGE So because of a course
3 of conduct between World Express and MTL is this
4 what you're saying, that MTL sort of paid them
5 without thinking or what? I don't know why an
6 NVOCC would be paying storage fees for a boat for
7 which it does not believe it has any
8 responsibility, that is hasn't somehow received in
9 contemplation of transporting overseas Whether
10 even having done that whether that puts it within
11 Commission jurisdiction I don't know

12 MR. CHANG Well, Judge, I wouldn't say
13 without thinking but the process we were told is
14 automated. It perhaps was an oversight by someone
15 in the payment department having received an
16 invoice to just assume it was paid. That I don't
17 have a clear answer for you, Judge, but we do
18 disagree that having paid these invoices to the
19 warehouse somehow brings MTL within the purview of
20 the Shipping Act.

21 JUDGE GUTHRIDGE For the Formula?

22 MR CHANG: For the Formula, yes And

1 with regard to the other two boats where it was
2 acting as a consignee only and we think whatever
3 circumstantial evidence Complainants are relying
4 upon show that MTL arranged for the carriage is
5 pretty thin at best and at worst we think there
6 may be some misrepresentation by Mr. Safonov
7 Certainly at odds with the documents and
8 correspondence in the record.

9 JUDGE GUTHRIDGE: As part of the record
10 is the District of New Jersey case World Express
11 and Connection vs. Crocus Investments, Crocus
12 FZE, Safonov and Middle East Asia Is that for
13 the storage fees for the Formula?

14 MR CHANG Yes, Judge It is the
15 outstanding storage and other charges for the
16 Formula and all three boats We brought it in a
17 different form because it has sort of a
18 contractual maybe common law tort dispute

19 JUDGE GUTHRIDGE: I understand there is
20 District Court jurisdiction over disputes like
21 that but why was it filing suit if it had already
22 been paid by MTL?

1 MR. CHANG: There were payments on some
2 of the storage charges but not all and not all the
3 customs charges either Some charges were paid by
4 MTL first with later reimbursement by other
5 parties but I hope that answers your question.

6 JUDGE GUTHRIDGE: I guess the question
7 would then become if MTL was paying -- paid some
8 of the fees and then stopped paying the storage
9 fees why didn't World Express sue MTL for them?
10 By their course of conduct MTL had sort of assumed
11 responsibility for them I know World Express is
12 not your client, MTL is your client

13 MR. CHANG. In this context I think we
14 can speak for both and I think the answer to that
15 is just because of their close knit commercial
16 relationship. World Express is a warehouse that
17 is located by MTL or at the same lot which MTL
18 uses as their preferred container freight station
19 So it didn't make sense to pursue MTL when a
20 demand has been made for these boats by
21 Complainant, Mr. Safonov, and as part of that
22 demand Safonov would be obligated to pay the

1 storage to World Express Had it been the other
2 way around and no demand had materialized by Mr.
3 Safonov and World Express was stuck with three
4 boats that had no ties to anybody then perhaps we
5 may be speaking of a different lawsuit.

6 JUDGE GUTHRIDGE: Okay I think I've
7 got some thinking to do about this case but so I
8 think we're going to adjourn pretty soon but
9 before we do, Ms. Tarassova, would you like to
10 wrap up your position?

11 MS. TARASSOVA: Sure, Your Honor. To
12 wrap up our positon we just want to state that if
13 it wasn't for the respondents' position
14 specifically for MTL's position as a Non-Vessel
15 Operating Common Carrier and its ability to
16 provide international shipping services to the
17 complainants the respondents would never have come
18 into possession of the complainants' property. As
19 far as the Monterey and the Chaparral it is the
20 complainants' position that Solovyev as he had
21 prior had assisted the shipment of the two boats
22 from Dubai back to the United States just as he

1 has arranged all the shipments of the other boats
2 from the United States to Dubai Mr Solovyev was
3 very well versed in international shipment in the
4 field of international shipping The complainants
5 relied on Mr Solovyev to assist them in that and
6 were not proficient in that area. That is
7 evidenced by Mr. Safonov's email to Mr Solovyev
8 and asking him to assist him and Solovyev
9 acquiescing and attempting to get several quotes
10 from various carriers in order to ship the boats
11 from Dubai to New Jersey. Even though we do not
12 have any documentation that would connect Mr
13 Solovyev for MTL into actually arranging the
14 shipment that actually did occur from Dubai to New
15 Jersey we do have evidence of MTL assuming
16 responsibility for the cargo when it arrived
17 paying the duties and the Customs' fees and taking
18 possession of the boats, submitting them to World
19 Express and Connection storage company which is
20 owned by Solovyev and MTL continuing paying for
21 the storage of all three boats. With regard to
22 the Formula it was, again, came into possession of

1 the respondents in connection with MTL's position
2 as an NVOCC There was contemplation from the
3 very beginning that the boat be shipped overseas
4 to Dubai It is supported by the record with Mr
5 Safonov in his deposition testimony explaining how
6 Mr. Solovyev was explaining that the boat would
7 need to be shipped in a specific way and he was
8 attempting to figure out how but the entire time
9 from August 2013 to approximately December 2013
10 when Mr. Safonov cancelled the order it was
11 contemplated that the boat would be shipped to
12 Dubai. It is also supported by the invoices where
13 MTL took responsibility for paying for the Formula
14 storage fees to World Express and Connection 46
15 U.S.C. 41102 ' (c) states that the NVOCC is
16 responsible for setting up just and reasonable
17 practices in connection with not only delivering
18 the property overseas but receiving, handling and
19 storing the property. That is something that the
20 NVOCC needs to be responsible for because it is
21 assumed that when the property is submitted to a
22 carrier the carrier needs to handle the property

1 in a respectful manner What we have here is the
2 respondents came into possession of the
3 complainants' property and instead submitted it to
4 another company and now these three boats that are
5 worth over \$100,000.00 are just sitting in the lot
6 and accumulating storage fees it resulted in a
7 lawsuit being filed against the complainants for
8 over \$100,000.00 and MTL should have sent the
9 appropriate notices They should have notified
10 the complainants that storage fees would be
11 accumulating and the amount of such storage fees
12 and they should have allowed the complainants a
13 reasonable opportunity to retrieve their property
14 back It is our position that the respondents did
15 violate the Shipping Act and if it wasn't for
16 their position as international shippers they
17 would never have come into custody of the
18 complainants' property.

19 JUDGE GUTHRIDGE: Okay, thank you Mr.
20 Chang?

21 MR CHANG: Yes, Judge I guess, first in
22 regard to the 2010 Formula boat I think the record

1 is clear that MTL was never engaged as a
2 Non-Vessel Operating Common Carrier. Certainly a
3 shipment was never booked with MTL, ocean freight
4 was never paid, no booking or shipping
5 documentation was ever generated and even it had
6 been generated it would have been for a port to
7 port move which has been a practice between the
8 parties Under those circumstances we don't see
9 that MTL is really, again, within the purview of
10 the Shipping Act nor would MTL be liable as an
11 NVOCC for any of its actions. I think aside from
12 that there is also a causation question with
13 regard to any alleged violation of the Shipping
14 Act and Counsel just mentioned that allegedly
15 because of the Shipping Act violations
16 Complainants had been damaged when I think the
17 facts are pretty clear that the complainants had
18 been damaged because of their refusal to pay
19 storage It is not a question of whether MTL as an
20 NVOCC or as a warehouse or whatever role
21 mistreated the cargo or failed to take proper care
22 of the cargo it is simply a question of who is

1 responsible for paying for over a year of storage
2 of the Formula. Complainants' position which we
3 think is unreasonable is that somehow respondents
4 are responsible for paying this storage. With
5 regard to the other two boats and those are the
6 2008 Chaparral and the 2011 Monterey, we think,
7 again, the record is pretty clear if not
8 undisputed that both boats were shipped by a
9 different ocean carrier. Again, that is American
10 President Line. And MTL certainly has no role in
11 any of the documents in having engaged in
12 arranging for this transportation To the
13 contrary MTL is listed only as the consignee which
14 is the recipient of the cargo They're not listed
15 as the shipper, they're not listed as the
16 forwarding agent, there is no documentation or
17 correspondence that ties MTL to arranging for this
18 move. To the contrary the emails that were
19 provided by Complainant show pretty clearly that
20 Mr Solovyev's limited involvement was in
21 obtaining two freight quotes with Hapag-Lloyd and
22 with Mediterranean Shipping Company These two

1 freight quotes were disregarded by Middle East
2 Asia. Under that circumstance we don't see how
3 simply being a consignee or being a warehouse
4 again implicates the Shipping Act or any Shipping
5 Act violation.

6 Even under complainants' theory, again, it
7 is not that the cargo was treated unreasonably or that
8 proper care wasn't taken of the cargo in storage.
9 Complainants' only real complaint is that Complainants
10 feel they shouldn't be liable for storage or customs
11 charges or any import charges. We don't think there
12 is any legal grounds for that either.

13 So on a final note and as we mentioned
14 earlier there is a real question about the
15 credibility or weight of some of these documents
16 that were submitted. There are multiple letters
17 that are undated

18 It seems that every time a critical or
19 material letter is involved it is not sent by
20 email which is the practice of the parties but on
21 this separate letter attachment sometimes with
22 multiple English and Russian translations written

1 thereon doesn't compose with practice either. I
2 think it is well established that Complainants
3 filed an original complaint which they alleged
4 that MTL had never shipped any of the three boats
5 in what we assume was an attempt to bring in the
6 Shipping Act and of course that fact has
7 subsequently or has always been known to be
8 untrue

9 Just recently Complainant submitted the
10 certification where they make references to some
11 sort of conversation or agreement by Mr. Solovyev
12 and MTL for the import return shipment of the two
13 boats and those allegations are contradicted by
14 the correspondence as well So it really -- to us
15 there seems to be a question about what evidence
16 should be considered by the Commission in terms of
17 deciding this case.

18 JUDGE GUTHRIDGE Ms Tarassova, do you
19 have any rebuttal to any of that limited solely to
20 Mr Chang's argument and responding to his
21 argument?

22 MS TARASSOVA: Your Honor, I mean I

1 think that the documents speak for themselves. I
2 think the Commission should take care in reviewing
3 all of the email communications that were
4 submitted. I think it is very clear as to their
5 credibility and I think that obviously we could
6 raise the same issue as far as the credibility of
7 the respondents' invoices for example, but I think
8 the totality of the evidence shows a clear picture
9 and I think that it supports the complainants'
10 position that the respondents are in violation of
11 the Shipping Act and they did take responsibility
12 for these boats and their actions show that they
13 continue to take responsibility for the boats by
14 making certain payments or at least alleging to
15 make certain payments on behalf of the
16 complainants for the storage of the property

17 JUDGE GUTHRIDGE: Okay, well thank you
18 Counsel It is a case like none other I've had
19 here It raises some peculiar problems I do
20 appreciate you taking the time to call in and
21 thank you for your argument. We can go off the
22 record.

1 (Whereupon, at 5:30 p.m , the
2 HEARING was adjourned)

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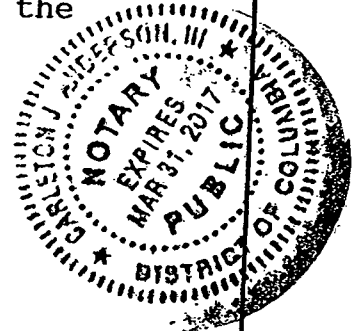
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8 the truth under penalty of perjury; that said
9 transcript is a true record of the testimony given
10 by witnesses; that I am neither counsel for,
11 related to, nor employed by any of the parties to
12 the action in which this proceeding was called;
13 and, furthermore, that I am not a relative or
14 employee of any attorney or counsel employed by the
15 parties hereto, nor financially or otherwise
16 interested in the outcome of this action.

17
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19 (Signature and Seal on File)

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21 Notary Public, in and for the District of Columbia

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